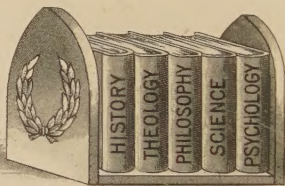


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# THE JUDICIAL DECISIONS

OF THE  
GENERAL CONFERENCE OF THE  
METHODIST EPISCOPAL CHURCH

By RICHARD J. COOKE, LL.D.

One of the Bishops of the  
Methodist Episcopal Church

With an Introduction by  
THE REV. DR. JAMES M. BUCKLEY

Introduction to the Third Edition by the  
HON. HENRY WADE ROGERS,  
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THIRD EDITION  
REVISED and ENLARGED

THE METHODIST BOOK CONCERN  
NEW YORK CINCINNATI

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## INTRODUCTION TO THE THIRD EDITION.

THE entire lawmaking power of the Methodist Episcopal Church is vested in the General Conference. The Annual Conferences cannot legislate, although they may vote on constitutional changes proposed by the General Conference.

The General Conference not only exercises all powers of legislation but it possesses in addition the supreme judicial power. In so far as it possesses both lawmaking and judicial power it bears resemblance to the House of Lords, which exercises both legislative and judicial power, although as respects the lawmaking power it acts in conjunction with the House of Commons, which latter body can now under certain circumstances enact laws which fail to command the approval of the Lords.

In possessing supreme judicial power the Methodist Episcopal Church differs from the Methodist Episcopal Church, South. The General Conference of that Church exercises no judicial power, and, accordingly, has no body



## INTRODUCTION.

of precedents such as in the Methodist Episcopal Church makes a book like that of Bishop Cooke's so important.

In the United States the civil courts have no jurisdiction over questions relating to the faith, practice, doctrine, and discipline of the Church, and a church member cannot invoke the supervisory power of a civil court where none of his civil or temporal rights are involved; but the decision of the church tribunal upon questions purely ecclesiastical are recognized as conclusive and final.

And if a civil right or right of property depends upon a question of doctrine, discipline, or matter of church government, a civil court will accept the decisions of the ecclesiastical tribunal of the Church having final jurisdiction as decisive thereof. In *Watson v. Jones* 13 Wall. 679 (1871) the Supreme Court of the United States held that it is of the essence of religious societies and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides. So in *Irvine v. Elliott* 206 Penn. St. 152 (1903) the Supreme Court of

## INTRODUCTION.

Pennsylvania held that a decision of the General Conference (it being the supreme court of law in the Church), on the meaning and effect of the provisions of the Book of Discipline is binding on the ecclesiastical body and will be followed in a court of law. And numerous other decisions to the like effect might easily be cited. The theory is, as stated by the Supreme Court of Illinois, in *Kuns v. Robertson* 154 Ill. 394, that the ecclesiastical courts are the best judges of merely ecclesiastical questions and all matters which concern doctrine and discipline. But civil rights and rights of property are subject exclusively to the civil tribunals, and the courts of the Church have no power to decide such matters; and if in this respect they exceed their jurisdiction, their action is subject to review by the civil courts.

The General Conference of the Methodist Episcopal Church which met in Cincinnati in 1836 adopted on May 4, two days after it had organized, the following resolution presented by Nathan Bangs:

*“Resolved*, That a committee of five, to be called the Judiciary Committee, be appointed, to whom may be referred all appeals or com-

## INTRODUCTION.

plaints of any character against the acts and doings of an Annual Conference; and it shall be the duty of this committee to examine all documents committed to them, and to report whether, in their opinion, the complainants are legally entitled to be heard before this Conference; and if not, what disposition should be made of their case or cases."

The committee was duly appointed with David Young, a minister of the Ohio Conference, as chairman. He had been a member of the General Conference of 1812 and of each succeeding Conference up to that time with the exception of that of 1820. The Journal does not disclose who were associated with him in the committee.

On May 18 the committee submitted a report, having been instructed to inquire "whether it be just or right, when an Annual Conference is divided, for that Conference to retain all property and legacies from the new when it belonged to them jointly when together; and whether, when the principal may not be divided, the proceeds of such property or legacies should not be divided in proportion to the numbers composing each Conference." The committee's report recommended that every Annual Confer-

## INTRODUCTION.

ence contemplating a division should provide, where it could be done legally, for an equitable division of the property, so as to give to each of those made out of it its proportion according to the number of its members, as nearly as might be; and that when a Conference was divided without having made such previous arrangement for a division of property, such arrangement should be made as soon thereafter as might be; in which case the property should be divided according to the number of members composing it; and if the principal of any property or legacies belonging to said Conference could not be divided, the proceeds thereof should be annually divided in the same ratio.

The committee had before it a few appeals and a question relating to slavery, but nothing more. The judicial work of the Conference in those days was not great. And prior to the creation of the Judiciary Committee the practice appears to have been to consider appeals before the Conference in open session. Appeals constituted about all of the judicial matters which came up, although occasionally a constitutional question was raised.

It has been a fact much commented upon that the General Conference being possessed of

## INTRODUCTION.

supreme judicial power is the sole judge of its own powers. At the General Conference of 1820 the following resolution was presented and adopted:

*“Whereas, A difference has arisen in the General Conference about the constitutionality of a certain resolution passed concerning the appointment of presiding elders; and,*

*“Whereas, There does not appear to be any proper tribunal to judge of and determine such a question; and,*

*“Whereas, It appears important to us that some course should be taken to determine this business, therefore*

*“Resolved, [etc.,] That we will advise, and hereby do advise the several Annual Conferences to pass such resolutions as will enable the next General Conference so to alter the constitution that whenever a resolution or motion which goes to alter any part of our Discipline is passed by the General Conference it shall be examined by the superintendent or superintendents; and if they, or a majority of them, shall judge it unconstitutional, they shall, within three days after its passage, return it to the Conference with their objections to it in writing. And whenever a resolution is so returned,*



## INTRODUCTION.

the Conference shall reconsider it; and if it pass by a majority of two thirds, it shall be constitutional and pass into a law, notwithstanding the objections of the superintendents; and if it be not returned within three days, it shall be considered as not objected to and become a law" (*General Conference Journals, Vol. I, p. 238*).

The above resolution was a crude way of proposing a constitutional change, and as nothing came of it, the next General Conference again considered the matter, and on May 18, 1824, Dr. Lovick Pierce, of the South Carolina Conference, gave notice that he would on the next day propose a resolution on the subject. But it was not until May 21 that the matter was voted on, the resolution being adopted, sixty-four voting in the affirmative and fifty-eight in the negative (*General Conference Journals, Vol. I, p. 267 and p. 277*).

The resolution as adopted in 1824 was in proper form and differed from that adopted four years before in certain other respects. The proposition of 1820 proposed that if the bishops disapproved a measure as unconstitutional, it was to be regarded as constitutional if it obtained a two-thirds vote of the General Con-

## INTRODUCTION.

ference, notwithstanding the veto. The proposition of 1824 provided that if after the veto the measure were passed by a two-thirds vote of the members present, it was to go into immediate effect, but if it received a less majority, it was to be laid before the Annual Conferences, in which case the decision of a majority of all the members of the Annual Conference present when the vote was taken should be final.

This proposition never received the sanction of the Church, and to this day the General Conference determines the extent of its powers. The suggestion that the Bishops should be given the power to pass upon the constitutionality of the legislation of the General Conference does not approve itself to the judgment of the Church as a whole, and is not likely to be adopted. There are very serious objections to it which outweigh the objections to allowing the General Conference to be the judge of its own powers. While the General Conference of 1912 defeated a proposition to create a supreme court for the Church, the time will come when some tribunal will be established in which the judicial power will be vested.

The "Judicial Decisions" was first published in 1903. A second edition appeared in

## INTRODUCTION.

1909. The present edition is published under a resolution adopted unanimously by the General Conference of 1916. The work is indispensable to anyone who wishes to know the judicial action taken by the General Conference and who is without access to the General Conference Journals from the beginning. And even one who has the Journals finds Bishop Cooke's work most helpful in enabling him to find readily whether the General Conference has taken action at any time in a similar case.

That the work has been done with accuracy goes without saying. Bishop Cooke is too scholarly and able a man not to do well what he undertakes. The Journals of the General Conference and the reports of the Judiciary Committees have been examined by him and he has in a brief and satisfactory manner stated the decisions which have been reached. In doing this he has rendered an important service, and produced a book of great value to all who desire to know the law of the Methodist Episcopal Church as it has been established by the decisions of its highest tribunal.

HENRY WADE ROGERS.



**INTRODUCTION**  
**TO THE**  
**FIRST EDITION**





## INTRODUCTION TO THE FIRST EDITION.

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TO INTRODUCE Dr. R. J. Cooke to the Methodist Episcopal Church was long since rendered an impossibility by his established reputation as an Educator, Professor in Divinity, Preacher, Legislator, and Author. To introduce this, his latest production, to the favorable consideration of all who have to make laws for the Methodist Episcopal Church or administer them, can be fitting only as it emphasizes the aim of the work, its need and the manner of its performance.

The aim is not to furnish the reader with the text of the rules and regulations which govern the Church—the Book of Discipline contains these—nor to describe how and why they were enacted. The Journal of the General Conference is the final authority upon these points. It is to state and, when necessary, to explain the judicial decisions which have been made in the

## INTRODUCTION.

lengthening history of the Church. If such a work is necessary to the State, it can not be superfluous in any organized ecclesiastical body in which exists a final court of appeal. It is all the more valuable when the powers center in one deliberative assembly meeting but once in four years.

Reports furnish to Supreme Courts all the precedents and their grounds. But unless the administrator of Methodist law carry with him in memory or in print all the Journals, he can not be sure whether he is not inconsistent with some previous decision. Even the Judiciary Committees and the General Conference have been frequently delayed or embarrassed for lack of accessible materials for forming a judgment. This need is so great that certain individuals have made summaries for their own use. The Bishops have also prepared similar compilations for their guidance.

This work will enable all interested to learn in a few minutes what has been decided on every adjudicated question which has originated in or been sent on appeal to the General Con-

## INTRODUCTION.

ference. It bears marks of care and thoroughness; its comments are lucid and pertinent, and it can but be helpful both to those who know, and those who wish to know but can not pay the price, in time, for original research.

It should be a work of permanent value, and in succeeding editions a few supplementary pages with current decisions will keep it in time and tune with the progress of the Church.

J. M. BUCKLEY.





**PREFACE**  
**TO THE**  
**FIRST EDITION**



## PREFACE TO THE FIRST EDITION.

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THE work herewith presented to the respectful consideration of the administrators of the Discipline must not be accepted in any sense as an intended Treatise on Ecclesiastical Law, nor as an Interpretation of Law, nor as an Exposition of the Jurisprudence of the Methodist Episcopal Church. It makes no pretensions to the importance such works might justly claim, since its only object is to contribute what it may to convenience, consistency, and continuity in the administration of the law of the Church.

It would have been much more agreeable to trace the evolution of our Church Courts from the fractional and irregular Conferences of early Methodism, and, therewith, the development of our Ecclesiastical Law from the period of the personal administration of WESLEY to the ju-

## PREFACE.

dicial utterances of the Delegated General Conference; but this would have led far away from the primary, and while less ambitious, yet no less useful, purpose of gathering in compact form the decisions of what had legally become the highest judicial body in the Church, and extracting from these decisions the fundamental principles which may serve as precedents in judicial administration.

The Journals of the General Conference are a rich mine for historical investigation, and he who would know the *fons et origo* of Methodist history must devote himself to the study of these documents, for here may be seen the play of those forces which are at once an expression of, and a contribution to, the world-wide expansion and internal development of the Church; the beginnings of institutions, and of far-reaching movements, the foundation and growth of that system of law, itself an illustration of our marvelous history, which, while being strong is yet flexible, while grounded in justice is yet tempered with Christian charity, and which seeks

## PREFACE.

only the purity of the Church and the protection of the rights and privileges of her members.

In these Journals there are contained decisions on legal questions of the highest importance, which, taken together, constitute a body of precedents as valuable to the administrator of the Discipline as the decisions of a Supreme Court are to the student of civil law. It may be that here and there a decision will be found which has become obsolete by reason of subsequent legislation, as is often the case in civil law, but that decident specimen is still valuable as material for history. The supremely important matter, however, is that consistency in the judicial decisions of the General Conference should be maintained. The importance of this will be readily conceded. Let it once become a justifiable opinion that the decisions of the highest Court of Appeal in the Church are purely arbitrary, and neither based upon nor in any degree influenced by precedent, and at once the authority of that Court is contemned. Now, since each General Conference has a new

## PREFACE.

Committee on Judiciary, it will not be surprising if opposing judgments on similar cases should be found in cases where the decisions of previous Judiciary Committees have not been consulted. But such a consultation at the General Conference during the trial of a case involves an examination of the Journal of each General Conference from the beginning, a duty which for its careful performance, at such a time and amid such circumstances, is almost, if not wholly, impossible.

The task herein undertaken, therefore, was to assemble these decisions together, to classify them, and to state in unambiguous terms the fundamental principle of each, thus affording a convenient handbook of reference for all administrators of the Discipline to any case upon which there is a recorded decision.

It may possibly occur to some that, since all judicial decisions of the General Conference prior to 1844 are common to both the Methodist Episcopal Church and the Methodist Episcopal Church, South, it would have added to the in-

## PREFACE.

terest, if not to the importance, of this work if the judicial decisions of the General Conference of the Church South were also included. It is perhaps true that such an inclusion would show the agreements which have been maintained and the differences which have arisen in the judicial economy of the two Churches since that time. But while this might prove to be of some value, it is clear that to have done this would also have been a departure from the original object in view.

Finally, it should be noted that not all the decisions here cited are judicial in a technical sense; *i. e.*, they did not emanate from the Committee on Judiciary in the trial of a case. They are, nevertheless, of a judicial character, since they were adopted by the General Conference in the exercise of its judicial powers. Such exceptions are marked *N. J.* A few notes have also been added. They are not intended to be, and it is hoped that they will not be understood as being, controversial in any sense. They are simply intended to be helpful to a clearer un-

## PREFACE.

derstanding of the text or of the principle involved.

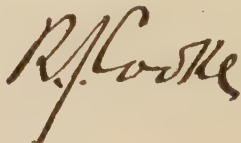
It gives me great pleasure to express my thanks to the Rev. Bishop D. A. Goodsell, LL. D., for eminently judicious suggestions, and to the Rev. Bishop Isaac W. Joyce, LL. D., and Mr. Robert T. Miller for the loan of General Conference Journals now becoming very scarce.

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In this revised edition the Judicial Decisions of the General Conferences are brought down to date by the addition of the decisions of 1904, 1908, 1912, and 1916. The rulings of the Bishops on various questions which were approved by the last General Conference are also included.

A few changes have been made. The "Notes" in the first edition are omitted, as are also some decisions which, by reason of a change in the law, have become obsolete.

With the hope that this volume, like its predecessors, may be of value in its special department, it is submitted to the service of the Church.

A handwritten signature in dark ink, reading "R. J. Cooke". The signature is written in a cursive style with a large, prominent "C" and a long, sweeping underline.



PART I  
SECOND EDITION

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THE  
JUDICIAL DECISIONS  
OF THE  
GENERAL CONFERENCE  
1904 and 1908



## CHAPTER I.

### GENERAL PRINCIPLES.

IN the Methodist Episcopal Church supreme **Legislative**  
authority within prescribed limits to enact all **Power.**  
laws necessary for the government of the Church  
is vested by the Constitution in the General  
Conference. The granted right is given *en bloc*.  
Article X of the Constitution reads: "The  
General Conference shall have full power to  
make rules and regulations for the Church  
under the following limitations and restric-  
tions; namely," etc. Full power is supreme  
power. Supreme power has its limitations;  
absolute power is superior to and independent  
of any power, check, or restriction whatsoever,  
and is vested in the Church, that is, the min-  
istry and laity. This is not the character of  
the authority vested by the Constitution in the  
General Conference. Nor is this authority  
*despotic*, which is a form of power less by little  
than absolute power, but greater than supreme

## GENERAL CONFERENCE DECISIONS.

power; for this power of the General Conference is limited by Six Restrictive Rules, which can not be altered or annulled without due constitutional process. It will be observed, however, that within the limits of these restrictions the General Conference has the unquestionable right to make any rule or regulation for the welfare of the Church. "Rules and regulations" signifies laws in general, as in the Constitution of the United States, Art. I, Sec. 8, 14, Congress shall have power "To make *rules* for the government and *regulation* of the land and naval forces." "Congress shall have power to dispose of and make all needful *rules* and *regulations* respecting the territory or other property of the United States." Art. IV, Sec. 3, (2). Rev. Jesse Lee, *Short History of the Methodists*, pp. 298, 299, says: "We had several new *regulations* made at this General Conference; one was as follows: 'The Bishops shall allow the Annual Conferences to sit at least a week.' Before this *rule* was established, the Bishop," etc.

"The following *rule* was also formed: 'The Bishop shall not allow any preacher to remain in the same station or circuit more than ten years successively.'

## GENERAL PRINCIPLES.

“The following *rule* was formed respecting the President of the Annual Conference.

“The following new *regulation* was also formed: ‘The Presiding Elder shall not employ a preacher who has been rejected at the,’ etc.

“The above *rules* and *regulations* I have taken from the first part of our Form of Discipline.”

An analysis of this authority to make rules and regulations, as described in the Book of Discipline and the Records of the successive General Conferences, shows that it is of a threefold nature—Legislative, Executive, and Judicial. But while this vested power is of this threefold character, it must not be concluded therefrom that there are three separate and distinct divisions, or departments, of government, each intrusted with its appropriate duties and exercising its authority independently of the others. The General Conference is a unit, one body in one place, at one time; and, as such, possesses sovereign authority in all three divisions of power. Nevertheless, the distinction between the Legislative, the Executive, and the Judicial is definite and pronounced. The Book

## GENERAL CONFERENCE DECISIONS.

of Discipline, paragraph 284, provides "The General Conference shall carefully review the decisions of questions of law contained in the records and documents transmitted to it from the Judicial Conferences, and in case of serious error therein shall take such action as justice may require." This provision is essentially judicial, and designates a function already existing and distinct from the legislative power, which has previously enacted the law in accordance with which the decision is to be made. There is no infringing of one function upon the other. Legislative authority determines what the law shall be, the Judicial declares what the law is.

### Final Court of Appeal.

Among the restrictions referred to as imposed by the organic law, and which are for the purpose of safeguarding the rights and liberties of the Church, are the following: "The General Conference shall not deprive our Ministers of the right of trial by the Annual Conference or by a select number thereof, nor of an Appeal; nor shall it deprive our Members of the right of trial by a Committee of Members of our Church, nor of an appeal." (*Discipline, Paragraph 46, Section 5.*) In addition to this the General Conference itself is constituted a Court of Ap-

## GENERAL PRINCIPLES.

peal, and since litigation must stop somewhere, some time—being the highest authority in the Church—it is a final Court of Appeal.

From its organization till the institution of **Jurisdiction.** Judicial Conferences in 1872, the General Conference had original jurisdiction in all trials of accused Bishops, who were amenable to the General Conference only, and appellate jurisdiction in the trials of Traveling Preachers. Now it has original jurisdiction only in cases of episcopal maladministration: "Complaint against the administration of a Bishop may be forwarded to the General Conference and entertained there; *provided*, that in its judgment he has had due notice that such complaint would be made. (*Dis. par. 230.*) In all other cases the jurisdiction of the General Conference is appellate.

But just as the Supreme Court of the United States and others Courts of Appeal have jurisdiction only in certain classes of appeals, only three classes of appeals may be entertained, if legally made, by the General Conference.

*First.* From the decision of a presiding Bishop on a question of law in a trial before a Judicial or an Annual Conference. "A Bishop shall preside in the Judicial Conference, and

## GENERAL CONFERENCE DECISIONS.

shall decide all questions of law arising in its proceedings, subject to an appeal to the General Conference.” (*Dis. par. 276.*)

*Second.* From the findings of a Judicial Conference in the trial of a Bishop. “A Bishop shall have the right of appeal to the ensuing General Conference, if he signify his intention to appeal within three months of the time when he is informed of his conviction.” (*Dis. par. 277.*)

*Third.* From the decision of a Conference outside the United States upon a case tried by said Conference. “Appeals from an Annual or Mission Conference not in the United States may be heard at the discretion of the Bishop in permanent charge thereof (due reference being had to the rights and interests of all concerned), either by a Judicial Conference called by said Bishop from neighboring foreign Conferences, or by a Judicial Conference called by him to meet at or near New York, or by the General Conference through a special Judicial Committee appointed for the purpose.” (*Dis. par. 281.*)

**Appeals Must  
be Heard.**

The General Conference must entertain and try an appeal within its jurisdiction if perfected and presented in proper form. An ap-



## GENERAL PRINCIPLES.

peal is within the jurisdiction of the Conference if it belongs to one of the classes mentioned, and the legal requirements necessary to its validity have been complied with according to the Discipline and ordinary usage. These having been observed, the General Conference is not at liberty to ignore, or to refuse, or to throw any impediment in the way of, or to prevent, in any manner whatever, the hearing of any lawful appeal. To do so would be a violation of the Constitution, of every sense of justice, and an unjustifiable disregard of fundamental rights.

It is not to be deduced from this, however, that the General Conference is compelled to decide upon every question of law referred to its decision. There must be a concrete case. To make decision compulsory, there must be an appeal. Many illustrations of this may be found in the Journals. In 1876, for example, the Bishops submitted to the General Conference the question of the legality of their deciding all questions of law arising in a Judicial Conference, but the General Conference did not take the subject under consideration. It was under no obligation to do so. Of course, the refusal of the General Conference to decide either way

## GENERAL CONFERENCE DECISIONS.

gave tacit consent to the legality of the custom, since the question was so framed that, if erroneous, the custom would be challenged. But in the case of an appeal from the ruling of a presiding Bishop in an Annual or Judicial Conference, the General Conference would have been compelled by the supreme law of the Church to hear the case and deliver its judgment.

**Decisions.** In the General Conference of 1900 a resolution was adopted that, in reporting their decisions to the body, the Committee on Judiciary should give the reasons for their judgment in each case. The resolution was important and necessary if decisions were to be of any value in ecclesiastical jurisprudence, for the reason that it is the doctrine of law, the legal reason, which determines judgment in a particular case that establishes that principle of law, so that the principle may be applied hereafter to similar cases. Lord Kenyon observes that it is the principle "which we are to extract from cases, and to apply it in other cases." But the reason for the decision is not the decision. Decision alone makes precedent.

Decisions are made upon questions raised in issue, and upon no others. They do not cover questions which are not presented in dispute

## GENERAL PRINCIPLES.

and considered by the court, even though such questions are involved in the case, and if presented and argued might have changed the verdict. A decision may be given on one point, or fact, only among many before the court, on the ground that the principle of law applicable to that particular point disposes of all the others in the case. But as in civil law, if a decision goes beyond the facts presented, if the reasoning leading up to the decision is irrelevant, or if it is evident that the case was not clearly apprehended, then the decision is of no value as a precedent. "Just as a trial court acts without jurisdiction if it assumes to go beyond the issues in the case and pass upon matters not submitted by the parties and not connected with the controversy raised by the pleading, or to render a judgment or decree not invited or asked by the litigants, so it is with the decision of an Appellate Court when the opinion does not correlate with the questions actually raised by the record." (*Black, On Interpretation of Laws, p. 338.*)

It would follow from this that the language of judicial opinion must always be construed and interpreted with reference to the exact question decided.

## GENERAL CONFERENCE DECISIONS.

Have the  
Force of Law.

Just as a large part of the civil law has not been sanctioned by the Legislature, but is embodied in the decisions of the courts, so Church law is found, not only in the express letter of the Discipline, but also in the decisions of the Bishops and of the General Conference which have not been adopted by that body and formulated into enactments. For example, in the case of ——. Counsel for defendant claimed that there was no specific prohibition in the Discipline forbidding an expelled minister from exercising his ministerial functions pending an appeal. This was correct; for, while there were certain prohibitions in cases remanded for a new trial, yet there was no express prohibition of the exercise of ministerial functions pending an appeal. But the Committee on Judiciary, considering this claim, decided that it is the intention of the Church that an expelled minister should not exercise ministerial functions after expulsion and pending an appeal.

This subject is broadly stated by Pomeroy in his *Constitutional Law* (third ed., p. 67), "The judgments of the United States Courts," he affirms, "expounding a statute, construing the Constitution, or adding a new rule to the

## GENERAL PRINCIPLES.

vast body of judicial legislation within their especial jurisdiction, are as much laws of the United States as the formal acts which have been passed by Congress and have received the assent of the President." And all this is consonant with the dictum that nothing is law which is not in the law.

Decisions, then, have the force of law when they are of such a character as to be accepted as precedents. "A solemn decision," says Chancellor Kent, "upon a point of law arising in any given case becomes an authority in a like case; because it is the highest evidence which we can have of the law applicable to the subject; and the judges are bound to follow that decision so long as it stands unreversed, unless it can be shown that the law was misunderstood or misapplied in that particular case." (*1 Kent Comm.* 475.) But not every decision is a precedent, though every precedent must be decision. And among precedents there are varying degrees of value and importance.

What, then, is a precedent? A precedent **Precedents.** is a decision which furnishes a permanent rule for the adjudication of similar cases to the one decided, or similar questions of law. Such judicial judgments are not to be lightly regarded.

## GENERAL CONFERENCE DECISIONS.

If they were so esteemed, nothing in law would be certain, and justice would vary with the personal opinion, the learning or ignorance, the fairness or prejudice, of every judge. It is among the unwritten laws of Methodism that one General Conference can not bind another; a popular notion which is subject, like many other notions, to modification; for the law of the Church, adopted by a previous General Conference, is the existing law up to the moment of its repeal, and by this law is the General Conference bound as certainly as it is by any law of its own making. Moreover, one General Conference can not lawfully annul the acts of a previous General Conference which created new rights by constitutional process. So the judicial decisions of the General Conferences in identical or similar cases, or questions of law, can not be held as having no continuous force, or as having no force as precedents. If they are not binding, and are subject to reversal without legal reason, then precedent has no place; it does not exist; and can never be cited in Methodist law. But such is not the case; nor can ever be, since such an arbitrary method of determining litigation

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would be so uncertain in its judgments, and so essentially antagonistic to the most elementary principles of justice, that it could not be sustained if attempted, nor command respect for its decisions if practiced. In civil law precedents are of the highest importance, and they can not be of less value in ecclesiastical law which takes cognizance of moral character, of our most sacred rights and privileges and ecclesiastical reputation. "It is," says Blackstone, "an established rule to abide by former precedents when the same points come again in litigation" (*1 Black. Comm.*, 69), and in his *Constitutional Limitations*, 49, Judge Cooley observes, "All judgments are supposed to apply existing laws to the facts in the case, and the reasons which are sufficient to influence the court to a particular conclusion in one case ought to be sufficient to bring it or any other court to the same conclusion in all other cases where no modification of the law has intervened."

This principle must also, in the very nature of things, apply equally to the Judicial Decisions of the General Conference; for, although the laws and legal methods and procedures in

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Church and State are different, the rational ground, the fundamental principle of rightness and justice which is back of all law, and of which law is the expression, and which gives moral authority, majesty, and force to law, is the same in both. For illustration, the General Conference of 1848 decided that a traveling preacher who has been suspended by an Annual Conference, and appeals from its decision, forfeits his right to prosecute his appeal in the General Conference if he withdraws from the Church prior to the adjudication of his case. In 1872, Judicial Conferences were instituted for the hearing of appeals from Annual Conferences. Now, the establishment of this new court did not, could not, nullify the principle underlying the decision of the General Conference of 1848, which is, that he who legally withdraws from the Church is beyond the jurisdiction of the Church. Of course, it is not to be inferred from this that, if one dies while his perfected appeal is pending, the appeal is vacated or forfeited by his death. It must be heard and passed upon as if he were living; for his cause is not dead, nor has he taken it out of the jurisdiction of the Church by any act of his own.



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The value of a precedent depends upon the reputation of the court, or of the judge giving the opinion upon the thoroughness of the discussion of the case decided, and certainly upon the completeness of the report of the case adjudged. For it is evident that, unless there is a clear understanding of the issue and of the questions raised during its trial, and the reasons for the rulings made thereon, it can not be determined whether the decision was conformable to the law, or to rules of reason, or whether it is applicable to any other case or not. The mere statement that a case was decided in a certain way is of no value as a precedent. Such a decision is not a permanent rule. What a precedent is worth is determined by the completeness of the record which evidences the decision and contains the legal or logical reasons for the judgment rendered.

An examination of the General Conference records will reveal the fact that the Reports of the Judiciary Committee are, to a large extent, until comparatively recent years, of no value as precedents, since they contain no further record of the cases tried than a mere statement of the findings, and this without any assigned reason for the conclusions reached.

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But there are a sufficient number of Reports which state the issue involved, and the reason for the verdict given, to afford us a body of exceedingly important precedents, which should be in the possession of all who may be called upon to sit in Courts of Appeal for reaching equitable conclusions in all identical or similar cases.

Presump-  
tions.

Finally, it is a well-grounded presumption that, as in civil law, the proceedings of the judicial tribunals of the Church are according to the law of the Church. An Appellate Court presumes, therefore, on the review of a case, that in the trial court all legal requirements were observed, and that the evidence there adduced justified the decision. The burden of proof to the contrary rests on the appellant. This is not at all times an easy task. He can not rebut this presumption with a mere declaration, nor support his contention in general terms. The record of the case is before the court. He must show affirmatively and clearly from this record, and not from anything outside the record, the facts which constitute the error complained of. This must be done also without recourse to doubtful interpretations, or to supposed inconsistencies in the record; for the court will presume, what is certainly a most

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rational presumption, that the decision of the lower court was based upon the interpretation of the facts which do sustain it, and not upon those that do not.

All the facts, then, upon which the claim **The Record.** of error is based must be in the record. This is the only evidence of the error, as the record, or transcript, is the only evidence that there was any trial. If any fact essential to the establishment of the claim is omitted, the court will presume that such fact would have sustained the decision appealed from if it had been presented. The presumption is, that the record certified to by a lawful person as containing all the proceedings and evidence in the case is correct and inclusive. The court will not presume that other facts affecting the judgment exists; they do not exist, in the mind of the law, if they conflict with the facts in the record. Even "where statements in the record conflict on a material point, the construction which upholds the judgment will be deemed conclusive. And where the omissions of the record raise conflicting presumptions, or its arrangement is capable of different interpretations, or it is unintelligible because of a confused arrangement, the construction maintaining the

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judgment will be adopted.” (*Ency. Pleading and Practice: W. Kinney. Vol. II, 436.*)

But if the record, or the transcript, which is the copy of it, containing the history of the case from its beginning in the trial court and the judgment thereon, does clearly and affirmatively set forth facts which are inconsistent with the presumption that the formal acts of the inferior tribunal were according to law, then the judgment appealed from will not be sustained by the Court of Appeal, even though it should be shown that the record is incomplete, in that all the facts are not presented; for, obversely to what has already been stated concerning the presumption that other facts if presented would sustain the decision, the court will not presume that omitted facts, if presented, would correct the error complained of.

### Reversible Errors.

An error to be reversible must not be merely of technical character. It must involve reason and justice. It must materially affect the judgment rendered; for it is the general opinion of the courts that, unless an error can be shown to be prejudicial to the rights of the appellant, changing or in any degree modifying the result, the decision of the trial court

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should not be reversed. It is true, however, that, generally, the opinion is held that an error does give rise to the presumption that it is in itself injurious to the interests of the appellant, though it may not be possible clearly to trace, mark out, and define the extent or degree of its influence on the final decision, and that the appellee is bound to show that it is not injurious. Several cases are cited in the *Ency. of Pleading and Practice* referred to, illustrating this principle. We read: "Error is presumed to be prejudicial. To justify an Appellate Court to affirm a judgment when error has intervened in the trial, the burden is upon the party claiming the benefit of the judgment to satisfy the Appellate Court that the error was not prejudicial.

"The Appellate Court will not support one presumption by another; it will not presume that error was harmless when the record does not show it to have been so, in order to support the presumption that the judgment was correct."

"While it is true that error will never be presumed, the converse of the proposition is equally true. Where error does affirmatively

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appear it will not be presumed that it was rendered harmless or removed."

"Injury will not be presumed from error, unless the record shows affirmatively the contrary."

"The rule is, that every error is *prima facie* an injury to the party against whom it is made, and it rests with the other party to show, not that probably no hurt was done, but that none could have been done."

But, as has been stated, there is a contrary rule, which is that the appellant must not only clearly show error from the record, but also that it does prejudice his case. The mere fact that an error of any kind is in the record is no clear evidence that it is injurious to the appellant. The judgment of the trial court will not be reversed if it is correct on the whole case, and if it can be shown from the record that the error could not have injured the appellant's cause in any degree.

Description or enumeration of errors reversible does not fall within the scope of this general view. For this inquiry special works treating on such questions must be consulted; nor does it come within the limits of this sec-

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tion to discuss many other subjects which belong to this important and most difficult branch, or division, of jurisprudence. Our sole aim has been to indicate in a most general way some primal facts which must necessarily be kept in mind. Other fundamental principles will develop themselves in a study of the following decisions.

## CHAPTER II.

### APPEALS.

**An Appeal is not admissible if appellant does not appear in person or by representative.**

An appellant from the —— Conference was expelled from the ministry and membership of the Methodist Episcopal Church, by the action of said Conference, on a charge of immorality. The Committee resolved, as he had not appeared in person or by a representative, that this appeal be not admitted. (*General Conf. Journal, 1864, p. 268.*)

**An Appeal is not admissible if not made within the time prescribed by the Discipline.**

——, of the —— Conference, had made a demand of said Conference for missionary money he claimed as due him. The demand not being granted, he appealed.

The appeal was not admitted, as the appel-



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lant did not appeal for between two and three years after the trial, and after he had notice of the Conference action. (*Journal, 1864, p. 268.*)

**An Appeal is not admissible if appellant has placed himself beyond the jurisdiction of the Church.**

The Committee have considered the second appeal of —, who appeals from the action of the — Conference, whereby he was expelled from the ministry of the Church. The representatives of the — Conference objected to the admission of the appeal on the ground—

1. That —, subsequently to his trial and condemnation, joined the Methodist Episcopal Church as a probationer, and thus, at least tacitly, confessed the justice of the action of the Conference in his case.

2. That —, since he was deprived by this expulsion of his ministerial authority and standing, has continued to preach, and has thus rebelled against the authority of the Conference and the Church.

3. That —, since he declared his intention of appealing to the General Conference, has connected himself with another organization, contemplating Church ends independent

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of and hostile to the Church to whose General Conference he now appeals.

The Committee, after hearing the statements and pleadings of the representatives of the parties, resolved that the appeal of —— be not admitted. (*Journal, 1860, p. 253.*)

The Committee took up the case of ——, who appeals from a decision of the —— Conference, whereby he was expelled from the ministry and the Church. The representatives of the —— Conference objected to the admission of the appeal on the ground—

1. That the appellant, since his expulsion, has continued to preach as if still in full possession of ministerial powers.

2. That the appellant, since his expulsion, has allied himself to another organization, independent of the Methodist Episcopal Church and hostile to it.

The Committee, after hearing the statements and pleadings of the representatives of the parties, *Resolved*, That the appeal of —— be not admitted. (*Journal, 1860, p. 253.*)

——, an appellant of the —— Conference, was deposed from the ministry of the Methodist Episcopal Church, by the action of said Conference, on the charge of immorality. The Committee did not admit the appeal, as the appellant

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had withdrawn from the Church, and had taken a license and continued to preach in another Church. (*Journal, 1864, 268.*)

**Right of Appeal is forfeited if one ceases to be a member of the Church.**

The Judiciary Committee has duly considered the appeal of ——— in which he alleges that he is still a member of the ——— Conference, and asks the General Conference to establish his membership in said Conference, and to grant him permission to transfer his membership to an Eastern Conference.

The papers filed in the case by Presiding Elders ———, ———, and ———, of the ——— Conference, show that after the action taken by the Conference of which said ——— complains, he, the said ———, united with the Methodist Protestant Church and entered its ministry, from which he was subsequently expelled.

If any irregularity was committed by the ——— Conference, concerning which it is unnecessary to express an opinion, no right of appeal exists, as the said ———, by formally uniting with the ministry of another Church, thereby ceased to be a minister of the Methodist Episcopal Church.

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It is not within the power of the General Conference to reinstate him in the ministry of our Church, or to direct the ——— Conference to reopen the case. (*Journal*, 1908.)

**An Appeal from an action of an Annual Conference, and not from a decision, is not admissible.**

The Committee, having examined the case of ———, of the ——— Conference, who complains that the said Conference caused to be entered on its records a minute to the effect that he had withdrawn from the Conference and the Church under charges of immorality, which minute he claims is incorrect and unjust, *Resolved*, That, in the judgment of this Committee, the complaint of ——— against the action of the ——— Conference is one over which, as a Committee of Appeals, we have no jurisdiction. (*Journal*, 1860, 223.)

**An Appeal to other than the Court of Appeals is not admissible.**

The printed "Appeal" of ———, being more properly an appeal to the public than a complaint of the ruling of a bishop, is dismissed. (*Journal*, 1860, 427.)

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### **Want of documentary evidence bars Appeal.**

In the matter of the appeal of —, a respected member of — Conference, from a decision of Bishop —, your Committee reports as follows:

When what was known as the Hamilton Amendment to the Second Restrictive Rule was before the — Conference, a motion was made that the Conference refuse to vote on the proposed amendment. — objected to the motion as illegal, and appealed to Bishop —, presiding, to decide the legality of the motion. Bishop — decided that the motion was in order and legal. From this decision — appealed to the General Conference. The above statement of the case is gathered from a paper signed and presented by said —. The appeal is not accompanied by a transcript of the Journal of said Conference relating to the case. We therefore recommend that the subject of the paper be dismissed. (*Journal 1896, 424.*)

### **Suppression of documentary evidence is no bar to Appeal.**

— [a local elder] was tried on a charge of dishonesty by a Committee of Investigation

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in the Church at —, and, being found guilty, was suspended. Upon trial in the District Conference he was found guilty and expelled. On appeal to the — Annual Conference, it would appear that the Select Number dismissed the appeal in the absence of the appellant, and without giving him or his counsel any opportunity to appear before them and present the case. It is due to the Select Number to state their action was based partly on the fact that the records of the trial did not show on their face any exceptions taken. It is also due — to state that he claims that the record before the Select Number was not correct; that the preacher in charge, who was also secretary of the District Conference before whom he was on trial, had possession of the records, and refused to allow him to make a transcript thereof, to the end that he could perfect his appeal to the Annual Conference. It would also appear, from the best evidence obtainable, that the secretary of the Annual Conference did not retain possession of what few papers were before the Select Committee, and that the same can not now be found, thereby rendering it impossible for — to present his appeal in due form of law. . . . Your

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Committee is of the opinion that —— exercised due diligence in trying to get his appeal properly before the Annual Conference, but that he was practically denied this right by a suppression of the papers and records in the case. Your Committee would therefore recommend that the case be referred back to the District Conference, and that the said —— be restored to the rights and privileges of an expelled member seeking appeal. (*Journal, 1896, 425.*)

### **Material deficiency in the records of a case may be sufficient grounds for a new trial.**

On motion, *Resolved*, That we now take up the appeal of —— . . . —— then came into Conference, and, after stating the grounds of his appeal, the papers were called for, which, it is said, can not be found. The Journals of the —— Conference were then read. On motion of ——, seconded by ——, it was resolved that, Whereas, the Journals of the —— Conference are materially deficient, and do not present the case in tangible form, so that this Conference can act understandingly on the subject; therefore, *Resolved*, That the case of —— be referred back to the —— Conference for a new

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investigation and decision. (*Journal*, 1832, 420.)

*Resolved*, That the decision of the —— Conference in the case of —— be reversed for the want of documentary evidence. (*Journal*, 1840, 64.)

*Resolved*, by the delegates of the several Annual Conferences in General Conference assembled, That the decision of the —— Conference in the case of ——, by which he was located without his consent, appears, from the Journals of said Conference, to be defective for the want of documentary evidence. *Resolved*, That the decision of the said Conference in the case of said —— be, and the same hereby is, reversed. (*Journal*, 1840, 85.)

*Resolved*, That in view of informalities in the manner of taking and recording testimony in the case of ——, it be referred back to the —— Conference for a new trial. (*Journal*, 1848, 51.)

*Exceptions*. Contrary opinion prevailed in a similar case during that same Conference, but the reasons determining the decision of the General Conference are not given. The case is as follows: Counsel for appellant, ——, presented a paper of exceptions to the Journals of the —— Conference, in the trial of ——.



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1. Because the secretary of the —— Conference did not keep regular minutes of the trial.

2. Because the charges and specifications on which said —— was arraigned, tried, convicted, and expelled from the Methodist Episcopal Church, by said Conference, do not appear on the record, nor is there any reference to any *minutes* kept by the secretary of said Conference, in which they are recorded.

3. Because of the omissions and irregularities, the evidence if there be any, does not come before the General Conference, in the manner prescribed by the Discipline in such cases. . . . —— moved that the exceptions taken by the counsel are not sufficient to bar the appeal or prevent its being investigated by this Conference. . . . The Conference affirmed the decision of the —— Conference in the case of ——.

**Without sufficient record there can be no Appeal.**

Your committee, having carefully considered the petition of ——, now a member of the —— Conference, purporting to be an appeal from the ruling of Bishop ——, in

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the case of charges against ———, of the said Conference, report as follows: .

The records on appeal are absolutely deficient and contain no statements, documents, or evidence upon which your committee can act. Said appeal is therefore dismissed. (*Journal, 1908.*)

**An expelled member may appeal to an Annual Conference on a complaint of maladministration against a pastor or presiding elder.**

———, an expelled member of the Church, presented complaint before the Annual Conference against ———, presiding elder, and ———, pastor, for alleged maladministration in his case. In the hearing of the complaint the following question, answer, and exception were noted.

*Question.* Is an expelled member entitled to be heard in an Annual Conference on complaint against the administration of the pastor and of the presiding elder in his case?

*Answer.* Such a complaint is of the nature of an appeal to the Annual Conference on the questions of law concerned in the case, and a hearing can not be denied on the ground that the complainant is not in the Church. . . .

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*Exception.* The following paper was immediately presented by —: “The Bishop having ruled that an expelled layman can bring charges in his own name against a member of the Conference, I ask that an exception to said ruling be entered in the Minutes.”

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Stripped of all unnecessary verbiage, the real question is this: “May an expelled member, in *any case*, be heard in the Annual Conference on a complaint against the pastor or presiding elder for maladministration?”

We answer that he may be so heard. It is conceded that, while the expelled member labors under the disabilities of his sentence he is denied the religious privileges of membership; nevertheless he still has *legal* rights which can not be denied him until he shall have exhausted all the remedies which the law of the Church accords him. We concede that the trial before the Quarterly Conference on appeal is the *final* trial on the *facts*, but the accused member may be heard further on questions of law.

I. He may prosecute an *appeal*, in the nature of proceedings in error on exceptions to the rulings of the administrator in his case. This appeal is to the president of the Annual Con-

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ference. If serious error of law has intervened to the prejudice of the expelled member, the sentence of expulsion will be set aside, and a new trial awarded him in the proper court below.

II. He may also complain of the administrator in his case to the next Annual Conference, and if, upon proper inquiry, the complaint be sustained, a new trial will be awarded the expelled member, and the administrator may be censured. We therefore recommend to *affirm* the rulings of the Bishop. (*Journal*, 1880, 355, 356.) The same rulings and decisions were made in the General Conference of 1864, pp. 358, 363 of the *Journal*. (*Journal*, 1908.)

**Plea of Appellant that he possesses testimony not before the Court, but which, if heard, would, in his opinion, have exculpated him, is sufficient ground for a new trial.**

*Resolved*, That inasmuch as Brother —— alleges that he has in his possession testimony which was not before the —— Conference, and which, in his opinion, would exculpate him from one of the charges upon which he was expelled from the —— Conference, said Conference be, and hereby is, directed to grant him a new trial. (*Journal*, 1840, 77.) 50

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The Committee having taken up the appeal of —, of the — Conference, the appellant, through his counsel, stated that new and important evidence has been obtained, and that the case is yet undecided in the Criminal Court, and, in view of these facts, requested that the case might be remanded to the Conference for a new trial. The case was so remanded by the Committee. (*Journal, 1860, 169.*)

**An Appeal is not annulled by the death of the appellant if regularly taken and perfected.**

In the matter of —, an elder and member of the — Annual Conference, your Committee, to whom was referred the above entitled subject matter, beg leave to report, that the only question involved and submitted by your honorable body is whether, in the case of an expelled member of an Annual Conference who dies pending an appeal, said appeal survives to his heirs or legal representatives, or is the appeal determined and ended by the death of the appellant?

The facts disclosed by the records submitted show that this case has been finally determined by the Annual Conference to which the appellant belonged; therefore, leaving the right of appeal to a Judicial Conference.

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It further shows that the appeal was regularly taken and perfected by the appellant, and was at his death pending. This appeal could only be disposed of by the appellate tribunal, which alone had jurisdiction.

The legal effect of this appeal was to suspend the judgment or sentence until the case was heard and disposed of upon appeal. (*Ecclesiastical Law*, p. 416.)

We are, therefore, of the opinion that the member's death did not affect the appeal, but that it is now pending and undetermined, and that the matter may be prosecuted by the deceased member's heirs or legal representatives, the same as if the expelled member of the Annual Conference were living. (*Journal*, 1884, 375.)

**The right of appeal is forfeited by a minister if he continues to exercise ministerial functions after his expulsion from the ministry. (*See p. 37.*)**

In the matter of —, your Committee finds said — was tried before a Select Number of the — Conference upon the charge of defamation of character, and that he was, by said Conference, expelled from the ministry,

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but not from the membership of the Church. His appeal from the action of the Conference came before a Judicial Conference, held at ——. Upon hearing, counsel for the Church claim—

1. That said — had forfeited his right of appeal by continuing to preach after he had been duly expelled from the ministry.

2. Contempt in the publication of sundry defamatory articles named.

Upon motion, duly seconded, the Judicial Conference declined to entertain the appeal of said —, for reasons above stated. Counsel for accused entered objection.

Afterward, to wit, in —, said — was tried before a Committee of — Church, of which Church he was at the time a member, upon the charge of defamation, and upon the further charge of insubordination; the specification under the charge of insubordination set forth that said — claims to be an ordained minister, and to have authority as such to marry people, baptize, and administer the sacrament of the Lord's Supper, and that he did, at given times and places, perform such acts as an ordained minister.

The Committee found said — to be guilty,

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and expelled him from the Church. An appeal was taken to the Quarterly Conference, which body, after a careful examination, affirmed the judgment of the Committee. Counsel for the defendant gave notice of an appeal. Both in the trial of — before the Annual Conference and in the trial before the Committee of — Church, counsel for defendant claimed that there was no specific prohibition in the Discipline forbidding an expelled minister from exercising his ministerial functions pending an appeal; that the taking of an appeal vacated the judgment pending the appeal. . . .

The above points were submitted to Bishop —, and . . . he decided the same in terms as follows:

1. The chairman presiding at the appeal of — ruled properly in admitting all the evidence offered at the trial.

2. A suspended preacher has no right, much less has an expelled preacher any right, to exercise any ministerial functions until his legal disabilities have been removed.

Par. 222, Sec. 3, of the Discipline provides that a minister, suspected of a crime, may be suspended until the meeting of his Conference. Par. 270 also provides that when a case is re-



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manded from a Judicial Conference for retrial, the preacher shall not thereby be authorized to resume his ministerial functions. While the Church has been thus careful in the cases named, we think it is evident that it is the intention of the Church that an expelled minister should not exercise ministerial functions after expulsion and pending an appeal.

An appeal does not vacate a judgment in the sense suggested by counsel for defendant.

Your Committee, therefore, recommends that the decision of Bishop —— be affirmed as the law in the case. (*Journal*, 1900, 456-458.)

**Right of Appeal is forfeited if one withdraws from the Church or from an Annual Conference while under charges.**

When a member of an Annual Conference gives notice to the Conference that he has withdrawn from the Church or Conference, and at the same time there be *charges* ready to be presented to him, and he has knowledge of such *charges* previous to his notice of withdrawal, and he has been marked upon the Journal of the Annual Conference as withdrawn under *charges*, has such member the right to appeal to the Gen-

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eral Conference from such record of the Annual Conference?

*Answer.* He has not.

When an expelled member has, by neglect or otherwise, forfeited his *right* of appeal, may a subsequent Quarterly Conference, if it desire to do so, grant him the *privilege* of an appeal?

*Answer.* No. (*Journal, 1860, 298.*)

**Withdrawal from the Church under charges does not bar notation of the same in Conference records.**

In the matter of the memorial of ———, of South America Annual Conference, relative to the case of ———, sent to the Judiciary Committee by action of the General Conference, we respectfully report:

It appears from the memorial and record in the Minutes of said Annual Conference that the said ———, a member of said Annual Conference, was brought before a Committee of Investigation, charged with insubordination. The charges were entertained, a hearing was had, the charges were sustained, and said ——— was suspended from ministerial services and Church privileges until the next annual session

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of said Conference. He thereupon sent the Presiding Elder a letter withdrawing from the ministry and membership of the Methodist Episcopal Church. At the ensuing session of said Annual Conference the Presiding Elder moved that said ——— be allowed to withdraw and that the entry in the Minutes of the Conference be: "Withdrawn under charges." The motion prevailed and the entry was so made in the Minutes of said Annual Conference. No charges of immorality were made against the said ———. He now complains that a gross injustice was done him by such entry in the Minutes and asks that the notation, "Withdrawn under charges," be declared null and void, and that the case be remanded to said Conference for rehearing.

Inasmuch as the charges and specifications, the action of the Committee of Investigation, the action of the Annual Conference, and all proceedings appear at length in the Minutes of the Annual Conference, so that there can be no misapprehension concerning the nature of the charge and the facts in the case, your committee are of the opinion that no injustice has been done to said ———, and that the prayer of the memorial be denied. (*Journal, 1908.*)

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**Change of venue and failure to hear appeal does not deprive appellant of right of appeal.**

The papers show that ———, a member within the bounds of ——— Charge was regularly tried, convicted, and expelled from the Church. Thereupon he took an appeal, and, fearing that justice could not be secured in the Quarterly Conference of ——— Charge, he requested to have it heard by some other Conference.

The presiding elder granted the request, and carried the case to the Quarterly Conference of ——— Station. When the time for the hearing arrived, the presiding elder presented the appeal, and, after a statement by the parties had been made, submitted the question, "Shall the appeal be entertained?"

A vote was taken, and the Quarterly Conference refused to entertain the appeal. Thus ended the matter there.

"The presiding elder now holds that he has no further jurisdiction in the case, and that ———'s rights are all exhausted."

We think not. The papers show that the said ——— had availed himself of his right to appeal in a regular manner, and had never forfeited the right; that the appeal was before the ——— Quarterly Conference in due form;

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and, further, there is testimony submitted tending to show that it was not heard, partly, if not chiefly, because the members of that Quarterly Conference "thought they had as much business of their own as they could attend to, and that they could not take up this appeal without neglecting their own business to some extent."

Upon this statement of facts it is the opinion of your Committee that the said —— has never had accorded to him the right of appeal which is guaranteed to every member of the Methodist Episcopal Church. (*Journal, 1888, 455, 456.*)

**An appeal based on informality not of serious error in a trial court can not be sustained.**

In the matter of the appeal of Rev. ——, of —— Conference, from the decision of a Judicial Conference, the Judiciary Committee report, that while an informality occurred upon the trial before the Conference Committee, it does not appear to have been objected to, and it was not of a nature to give rise to any suspicion of injury to the accused. If objection had been made at the time, the irregularity

## GENERAL CONFERENCE DECISIONS.

could have been avoided; it should, therefore, be regarded as waived.

There does not appear to have been any serious error committed, nor any injustice done to the accused. We therefore recommend that the appeal be not sustained. (*Journal, 1880, 354.*)

**Papers used in evidence and the charges and specifications upon which appellant was tried must be specifically referred to and definitely identified by Journal of the Conference.**

On proceeding to read the charges, specifications, and findings of the Conference (in the case of ——), it was found that the document containing the charges was not so connected with the Journal as to be certainly identified by the record; whereupon, on motion, the following resolution was adopted, namely:

*Resolved*, That in consequence of informality in the records of —— Conference, in the case of ——, the case be remanded to the —— Conference for a new trial. (*Journal, 1856, 77.*)

**When decision of trial court is affirmed.**

*Resolved*, That it is the sense of this Conference that, when the motions to affirm, to re-

## APPEALS.

mand, and to reverse have been successively put and lost, the decision of the court below stands as the final adjudication of the case. (*Journal*, 1860, 248.)

### **New evidence is not admissible in case of appeal.**

The Committee on Questions of Law have carefully considered the interrogatories propounded by the Bishops to the Conference, and by the Conference referred to said Committee, and they present their answer in the following resolutions. . . . 8. *Resolved*, That in no case of an appeal can new evidence be admitted. (*Journal*, 1848, 126, 127.)

### **The failure of a Committee to express penalty is no ground for Appeal.**

The paper of —, complaining of a decision delivered by Bishop — in the — Conference, by which he claims to have been wronged, has been before us. We did not see any right to go into the merits of the case, but confined our attention to the single question of law.

The question, as stated in the paper submitted by — differs from the form found in the *Journal* of the Conference. The *Journal* reads thus:

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“When a member of the Methodist Episcopal Church is charged with immorality, and brought before a Committee, and found guilty of a crime forbidden by the Word of God, and so make out their verdict, but fail to affix the penalty, can the preacher in charge rightfully expel said member without first having a penalty affixed by the Committee?”

This question the chair answered affirmatively.

— recites two grounds of complaint.

1. The Committee failed to declare him guilty of a crime “sufficient to exclude a person from the kingdom of grace and glory,” and that this failure vitiated the verdict.

2. The Committee failed to affix a penalty, and therefore the exclusion was void.

The Bishop presiding holds that when an accused person is declared by the Committee “guilty of a crime expressly forbidden in the Word of God,” it is not necessary to afford a basis for the pastor’s action to add “sufficient to exclude him from the kingdom of grace and glory,” as the immorality is explicitly set forth in the former clause.

As to the second exception, he holds that when a member is tried and found guilty, as



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above, "of crime expressly forbidden by the Word of God," the Discipline declares the penalty, and adds, "Let the minister or preacher who has charge of the circuit expel him."

Believing these positions well taken, the Committee recommends the following resolution:

*Resolved*, That the ruling of Bishop ——— in the ——— Annual Conference in the case of ——— be approved, as in harmony with the law and Discipline of the Church.

We also recommend that the complaint of ——— be dismissed. (*Journal*, 1864, 358.)

### A Question of Law is not an Appeal.

Your Committee on Judiciary, having carefully considered the petition of several members of the ——— Annual Conference, asking for decisions in certain matters of law relating to the standing of ———, a member of the said Conference, report as follows:

The petition above mentioned asks for rulings on certain questions of law suggested to the petitioners by reason of the judicial proceedings in the said Conference, but which questions, in so far as papers submitted to us show, were not ruled upon in such proceedings, and

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the said petition has no appellate features whatever.

For the above reasons, in our opinion, there is no warrant for action by this Conference. (*Journal, 1908.*)

**A Bishop may not change hearing of appeal from one district to another. A District Superintendent may refuse to set aside decision of Appellate Court.**

By action of the General Conference, your committee has been asked to answer the following questions:

1. The right, in general, of a Bishop to change the hearing of an appeal from the district where the first trial was held to another district.

2. If so, on what grounds?

3. Did the above case have such grounds of appeal?

4. Was the ruling of the Presiding Elder, in refusing to set aside the decision of the Appellate Court, in harmony with the evidence and in harmony with our law?

These questions we answer as follows:

1. We find no provision in the Discipline authorizing the Bishop to change the hearing

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of an appeal of a member of the Church from one district to another.

2. In answer to the question as to the right of the Presiding Elder, presiding in an appeal case, under paragraph 273, to deny the motion to set aside the decision of the triers of the appeals of members, we reply that he has such a right.

**The rulings of the President of an Annual Conference must be included in the record on appeal.**

Your Committee on Judiciary, having carefully reviewed the records on appeal in the case of the Church at ———, ——— Conference, against ———, respectfully report:

The said ———, a member of the said Church, was charged with insubordination and defiance. He was brought to trial before a Committee of Nine, duly appointed by the pastor in charge, and found guilty under all specifications and expelled from the membership of the Church. The said ——— then appealed to the District Triers of Appeals and the decision of the Committee of Nine was reversed. The Church then appealed on points of law to the

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next Annual Conference. The rulings of the President of the Annual Conference are not included in the record on appeal and are not before this committee. Therefore, in the opinion of your committee, the appeal should be dismissed. (*Journal, 1908.*)

**Agreements, whether oral or written, between Churches may not be annulled.**

Your Committee on Judiciary have examined into the appeal of members of the Marie Church, of Rock River Conference, bringing to the consideration of your body a controversy existing between said Church and the Trinity Methodist Episcopal Church of Chicago, concerning the title and right of possession in and to property which for many years was occupied by the Marie Church as a place of worship. This appeal is reinforced by the appeal and memorial of Rev. ——— and eleven other members of said Conference. The appellants also seek a review of certain orders and rulings by Bishops ———, ———, and ——— with relation to said controversy. The material facts, as disclosed by the records and papers presented, are substantially as follows:

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In the year 1883, Trinity Methodist Episcopal Church of Chicago had in contemplation the founding of what was then known as the Wentworth Avenue Methodist Episcopal Mission, which mission afterwards developed into the Marie Church. In aid of that enterprise, Mr. ———, a member of the Trinity Official Board, proposed to donate the lot on which the mission building was to be erected. In seeking gifts with which to erect the building, application was made to the First Methodist Episcopal Church of Chicago, whose trustees held certain funds in trust for the building of Methodist Episcopal churches. The application was favorably considered, and the trustees of First Church adopted a written resolution agreeing to donate the sum of \$10,000 to said building, on the express condition that Mr. ——— would undertake to convey the title to the property to the First Church within three years from that date, from incumbrance, which title was to be held by First Church in trust and conveyed to the new Church to be organized out of the mission, whenever it should become duly incorporated. On receiving this proposal, the Official Board of Trinity Church, including Mr. ———, held a meeting and formally ac-

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cepted it and caused a written record of said offer by First Church, and its own acceptance thereof, to be entered in the books of the Church and signed by its president and secretary. The donation was paid, and applied to its intended purpose. The mission appears to have prospered, and in 1901 was incorporated as the Marie Methodist Episcopal Church. In its report to the Annual Conference, it shows a list of members, 302; probationers, 77; Sunday-school officers and teachers, 38; and Sunday-school scholars, 327. During its last year, under pastoral care, its receipts were over \$4,300, and at the close of the business year it was without debt. It had accumulated a Sabbath-school library of liberal proportions, and was reasonably well supplied with furniture and conveniences for the comfortable use and enjoyment of the building as a place of worship. The entire property is represented to be worth about \$40,000.

Returning, now, to the history of the disputed title, it appears that Mr. ——— never conveyed it to First Church, according to the terms of said donation, but did, after an interval of a few years, make a conveyance thereof to Trinity Church for a nominal consideration.

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The reason prompting this diversion of the title from the First Church to Trinity is not disclosed in the record. When the Marie Church had become incorporated and competent to take the title to itself, it called upon Trinity Church to recognize the trust character of the title which it had received from Mr. ———, and to make conveyance thereof according to the spirit and intent of the agreement under which the donation had been made by the First Church, but this demand was refused. Thereafter, and after unavailing efforts to secure a settlement by amicable methods, Marie Church brought an action in the courts of the State to have the trust established. Unfortunately, at that time the written evidence of the agreement had been lost sight of, and the suit was based upon the oral understanding. Trinity Church appeared to the suit and made objection that under the laws of Illinois the alleged trust agreement could not be enforced by the courts unless it had been reduced to writing. This objection was sustained, and the plaintiff's bill was dismissed. Since that time, the records embodying the agreement have been found, and so far as appears, their verity is denied by no one. Trinity Church continued, however, to deny any

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right of ownership in Marie Church, but offered to make to the latter a lease of the property at a nominal rental, but Marie Church refused to accept the position of tenant of property of which it claimed to be the equitable owner. In December, 1905, a commission appointed by the Rock River Conference to negotiate some settlement of compromise of the difficulty reported a plan of compromise, by which the title to the property should be placed in the City Missionary and Church Extension Society. Marie Church promptly signified its readiness to accept the compromise, but Trinity Church refused to concur. Later, another commission was appointed by the Conference to consider the matter, and reported that Trinity Church should make a conveyance of the property to First Church, to be held in trust for the use of Marie Church, but Trinity also declined to comply with this finding. After refusing to accept the finding of the commission, Trinity Church adopted a resolution that if Marie Church did not at once abandon its claim to the property and enter upon cordial relations with Trinity, the Episcopal authorities should be appealed to for an order "to unite Marie Charge with the Trinity Church for the Quarterly Conference



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purposes," or "to discontinue Marie Charge as a preaching place." The Marie Church still declining to submit, Trinity took steps to carry out its threat of benevolent assimilation by force of an Episcopal order eliminating so far as possible the separate and independent existence of its opponent. In September, 1906, a short time before the assembling of the Annual Conference, over which Bishop ——— was to preside, Bishop ——— having first urgently advised Marie Church to yield its claim of ownership and accept a lease of the property from Trinity, addressed a letter to the Presiding Elder, ordering that "Marie Chapel be discontinued as a separate charge," and that it be "connected with the Trinity Church of Chicago." Acting presumably upon this authority, but without obtaining the consent or concurrence of the Quarterly Conference, the Presiding Elder caused notice to be given to the effect that Marie Church was discontinued as a preaching place until further notice. Since that date, Presiding Elder has held no Quarterly Conference upon the Marie Charge, and said charge has been without the services of a preacher and without pastoral care, though it has appeared before each Annual Conference and asked to be

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placed upon the list of appointments and given a pastor. Soon after the adjournment of the Annual Conference of 1906, Trinity Church, by its officers and agents, took forcible possession of the Marie Church property, and locked and secured it against use by said Church, and thereafter leased it to the Baptist denomination, which is now using this Methodist Church as a place of worship and for the building up of a society of its own faith and order, while the large membership of Methodists, who for twenty-three years had been accustomed to look to it as their religious home, is left homeless and shepherdless. At all times, in season and out of season, in each recurring Annual Conference, and before each Bishop holding or exercising jurisdiction in that territory, Marie Church, its members and friends, have sought for relief, but without avail. Bishop ———, presiding in 1906, appears to have felt bound by the order of Bishop ——— and refused to listen to any application or demand for the appointment of a pastor to said charge. Bishop ———, at the 1907 session of the Conference, also declined to interfere, and when asked to answer certain questions as to the law governing the situation, declined so to do, at that time, but said he would

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take them before the next meeting of the Episcopal Board. Thereupon, this appeal was taken, and the matter brought to the attention of this General Conference.

The case calls first for inquiry into the claim of Marie Church to the property in controversy. The facts which we have recited admit of but one possible conclusion by any unprejudiced mind, upon this feature of the appeal. Trinity Church, having obtained the donation from First Church on the express condition that the property should be conveyed to the latter in trust or the new Church thereafter to be organized from the mission could not, upon any sound principle of law or moral, defeat that trust by taking title to itself, and when the mission was organized and incorporated as a Church, it was clearly entitled to demand the execution of said trust according to its terms. The fact that ——— did not personally sign an agreement to make the conveyance is immaterial. He was a member of the Official Board of Trinity Church, which applied to First Church for the donation. He acted with said Official Board in accepting the donation upon the terms proposed, and when, in violation of those terms, he conveyed the title to Trinity, the latter took it,

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charged with the trust, and was bound to make the conveyance which it had agreed should be made for the benefit of the newly organized Church. It follows, therefore, that in repudiating the trust, and ejecting Marie Church from the property which it equitably owns, Trinity Church was wrong, and that in refusing a lease and demanding a conveyance of the title, Marie Church was right. Without attempting to pass upon the merely technical legal rights, if any, growing out of the failure of the suit brought by Marie Church in the civil courts, we hold that the claim of Trinity Church to own said property and to exclude Marie Church therefrom, and its assumption of authority to lease the same to a Church of another denomination, is unfounded, inequitable, and contrary to good conscience and the plain teaching of God's Word. Trinity Church should right the wrong by restoring the property to the possession of Marie Church and by executing all papers necessary to perfect its title beyond controversy in the future, and it is so ordered. Turning, now, to the complaints based upon the rulings of the Bishops, we have to say:

1. That in so far as the order of Bishop  
—— contemplated a union of Marie Church

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with Trinity, he appears subsequently to have withdrawn it, as being based upon a misapprehension of the law, and therefore we need not consider it.

2. The order to discontinue the Church as a preaching place, and the notice of the Presiding Elder to that effect having been made in the interval between Conferences, without the concurrence or consent of the Quarterly Conference, was in excess of authority as limited by the Discipline, paragraph 193, section 32.

3. In view of the withdrawal of the Episcopal order for the union of the two charges, and the strong probability that if our findings with respect to the property are approved by the General Conference and accepted in good faith by the parties, it will put an end to all strife and lead to a prompt restoration of Marie Church to the list of appointments, we are not disposed to enter upon any attempt to define or measure the limits of the Episcopal prerogative to summarily or arbitrarily order the discontinuance of a preaching place, or to refuse a pastor to a self-supporting charge which asks for such appointment, and is able and willing to receive and support such pastor. But we think it proper to say that, in our opinion, the time-

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honored rule of the common law of our Church, which assures a preacher to every pulpit and a pulpit for every preacher, is one not to be lightly disregarded. Marie Church has proved its right to live. It is in a neighborhood not otherwise supplied with Methodist preaching places. It has done a valuable work and gathered about it a strong and loyal membership, more than twice the membership of First Church and more than two-thirds of the membership of its parent Church, to which, against its protest, it has been sought to attach it, or be left without pastoral care. Such a Church should not be left to disintegrate and be lost to Methodism for want of a shepherd, nor should it be denied the recognition or the rights which have always been accorded to Methodist Churches in general, unless it forfeits the same by insubordination. Above all, it should not be subjected to a deprivation of such right as a punishment for refusing to submit to what it justly esteemed a wrongful demand for the surrender of its right to the ownership of its own house of worship. (*Journal, 1908.*)

## CHAPTER III.

### BISHOPS.

Complaints can not be made to the General Conference against the administration of a Bishop unless due notice has been given to him in writing.

WHEREAS, It appears that individuals sometimes forward to the General Conference complaints against the administration of the Bishops without due notice being given them, and

WHEREAS, We consider that our superintendents should be apprised of these proceedings beforehand in writing; therefore,

*Resolved*, That, in the judgment of this General Conference, it is improper for such complaints to be made without due notice being furnished to the Bishops in writing. (*Journal*, 1860, 231.)

## GENERAL CONFERENCE DECISIONS.

**A Bishop may not submit to a vote a question of obedience to a law of the Church.**

The following question was submitted to Bishop —— in the —— Conference:

“May the question of electing a brother to local deacon’s orders, who has not passed examination in the Course of Study prescribed for local preachers applying for deacon’s orders, be submitted to a vote?”

The answer to this question was, “No.”

The Committee on Judiciary approve this answer. A Bishop may not submit to the vote of an Annual Conference the question of obedience to a law of the Church, (*Journal, 1884, 376. See also Journal 1904, 514.*)

**A Superannuated Bishop may preside over a General Conference Committee.**

The following resolution was submitted to the Judiciary Committee by the General Conference, upon the request of the —— Conference, to-wit:

“*Resolved*, That the Committee on Judiciary be requested to consider and report to the Gen-



## BISHOPS.

eral Conference whether a Superannuated Bishop can legally preside over the Committee on Boundaries."

To this resolution we answer, "He can."  
(*Journal*, 1908.)

**A Bishop may consolidate Churches and appoint a pastor to the united charges.**

The Committee on the Episcopacy, having carefully considered the question as to the powers of the Bishops to consolidate two or more Churches, declares that the Bishops have full power under the law and usage of the Methodist Episcopal Church to consolidate Churches and appoint one pastor for the united congregation.

In so doing they exercise an authority which, from the beginning of our distinct Church life, has been held to be resident in the Bishop presiding in an Annual Conference by virtue of his power to "fix the appointments of the preachers." (*Journal*, 1900, 422, N. J.)

**A Bishop has no legal authority to judge of moral or religious character.**

Concerning a memorial that Bishops be instructed to transfer no minister from one Con-

## GENERAL CONFERENCE DECISIONS.

ference to another "whose moral and religious character is not absolutely without question," the Committee on the Episcopacy reports that there is no provision constituting a Bishop the authoritative judge of moral and religious character, and, therefore, legislation on this point is inexpedient. (*Journal, 1900, 423, N. J.*)

**A Bishop may not forbid the names of candidates who have passed required Disciplinary examinations to be presented for admission on trial.**

Your Committee on Episcopacy would respectfully recommend that the characters of the General Superintendents and their administration be approved, with the exception that while the ruling of Bishop — in declining, in the — Conference, to allow the names of certain candidates who had passed the preliminary examinations, and had been duly presented for admission on trial, sprang from a regard for the efficiency of the Church, in view of the law in the case, and the danger of justifying a precedent, we are compelled to disapprove the said ruling. (*Journal, 1892, 439, N. J.*)

## BISHOPS.

### The Appointing Power is in the Episcopacy.

In the matter of A. B. and C. D., of the ——— Conference, relating to the questions arising out of the administration of Bishop ———, we respectfully submit the following:

On the 22d day of February, 1908, Bishop ——— left ——— for New York, via England, having closed the session of the Conference on that date. On March 3d, Rev. ———, dean of the theological school of the Conference, died. It appears that the Presiding Elder of the ——— District, Rev. A. B., after consulting C. D., who had been appointed Presiding Elder of the ——— District, decided to appoint said C. D. dean of the theological school. It appears that the said C. D. was not to be removed from the presiding eldership of the ——— District, but to assume the duties in the school immediately. On March 9, 1908, it appears that said A. B. wrote to Bishop ———, informing him of his action, and added, "All this, of course, is subject to approval or modification on your part;" whereupon Bishop ——— replied April 18th, in which reply he stated that he had written to the said A. B. immediately upon his first intelligence of the death of the said Mr. ———,

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and directed the said A. B. to take general charge of the theological seminary and call to his assistance Mr. ——— and Mr. ———, who were appointed professors; also Dr. ——— and Dr. ———. It appears that Bishop ——— stated that C. D. was absolutely needed in ———, and that the work of the presiding eldership of ——— from ——— would never do, for even there he was more than Presiding Elder. To make sure of this word reaching Mr. A. B., it appears that the Bishop sent a cablegram containing these words: "C. D., ———, does not appear that Bishop ——— interfered in any way with the prerogative of the Presiding Elder, as set forth in paragraph 190, sections 2 and 3. The action of the Bishop is sustained." (*Journal*, 1908.)

**A Bishop may appoint a preacher to a Church of another Methodist denomination.**

WHEREAS, The Bethany Independent Methodist Church is closely allied to us in doctrine and usage, and has for years employed Methodist Episcopal ministers as pastors to supply the pulpit, and has taken the regular annual benevolent collections, and during the last five years paid over to the Baltimore Methodist

## BISHOPS.

Episcopal Conference seven thousand one hundred and sixty-five dollars, thereby manifesting its love for the old Methodist Episcopal Church; therefore,

*Resolved*, 1. That we recognize the expressed wish of Bethany Church, and recommend that the request be granted.

2. That the General Superintendents of the Methodist Episcopal Church, in making the appointments, be granted permission to appoint pastors from our Church to any Methodist Church not under our care, but having the same doctrines and usages, and operating with us in our benevolent work, who may ask of our Church said appointment. (*Journal*, 1892, 440, N. J.)

**The President of a Conference may use his own judgment in not submitting to a vote questions not pertaining to the business of a Conference.**

The President of an Annual or a Quarterly-meeting Conference has the right to decline putting the question on a motion, resolution, or report, when, in his judgment, such motion, resolution, or report does not relate to the proper business of a Conference; provided, that in all

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such cases the President, on being required by the Conference to do so, shall have inserted in the Journals of the Conference his refusal to put the question on such motion, resolution, or report, with his reason for so refusing; and provided, that when an Annual Conference shall differ from the President on a question of law, they shall have a right to record their dissent on the Journals, provided there shall be no discussion on the subject. (*Journal, 1860, 121.*)

**The decision on a question of law by a Bishop presiding in an Annual Conference can not be set aside except by a General Conference.**

When a question of law has been decided by a Bishop in an Annual Conference, that decision can not be reversed or set aside except by the action of the ensuing General Conference, to which body an appeal may be taken by the Annual Conference or by any member thereof. (*Journal, 1860, 297.*)

**On the death of a District Superintendent a Bishop in interim may divide a District and appoint thereto Presiding Officers.**

Is it in accordance with the general usage of the Methodist Episcopal Church, with the

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spirit of her economy, and with the law of the same given in the Discipline, Part 1, Chap. III, Sec. 1, in answer to Question 3, and in Chap. IV, Sec. 1, that on the decease of a presiding elder in the interim of an Annual Conference, a Bishop may divide the district into two or more sub-districts, and appoint thereto as many presiding officers, having power to perform all the duties of presiding elders in Quarterly Conference, and to represent in the ensuing Annual Conference the preachers in charge of the circuits or stations to which they were personally appointed?

We find among the duties of the Bishops the following: To form the districts according to his judgment. (Discipline, Answer 2, page 92.) The same authority (see Discipline, page 98) declares the presiding elders are to be chosen by the Bishop, thus referring the whole power in determining the size of the district, the number of its charges, and the selection of the presiding elders to the Bishop. We, therefore, answer the question thus:

He has the legal right to arrange the district according to his own judgment. (*Journal*, 1864, 140, 141.)

## GENERAL CONFERENCE DECISIONS.

**A Bishop may strike an insubordinate Church from the list of Conference appointments.**

Your Committee, having examined the memorial of —— Chapel, —— Conference, complaining of the administration of the Bishops in their case, and also the official correspondence which it occasioned,—they find the facts to be, that in 1861 the minister appointed as pastor of —— Chapel was rejected by the officary, not because of anything personally objectionable in the appointee, but because the officary aforesaid had not been consulted in the matter of the appointment, they desiring to retain the services of a man who had already been regularly appointed to them the preceding two years; further, that they not only voted to reject the pastor appointed, but advertised in the daily newspapers that —— Chapel was without a pastor, and locked the doors of the church on Sabbath morning, thus excluding the pastor and presiding elder, claiming for themselves the right so to do because of the peculiarity of their deed. Under these circumstances, Bishop —— released the minister appointed to —— Chapel, and notified the Official Board that he could not consent to the appointment of another preacher to the



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charge except upon the following conditions; namely:

"1. That the official and private members should jointly agree that hereafter they would receive and support such ministers of the Methodist Episcopal Church as her regular appointing authority should from time to time appoint to the pastorate of —— Chapel.

"2. That they should receive such presiding elders as should from time to time be appointed to the district, including —— Chapel, and pay their proper proportion of his claim, according to Discipline.

"2. That the trustees of —— Chapel should guarantee to such regular appointees, whether as pastors or presiding elders, the free use of the pulpit."

He further stated to them as follows:

"—— Chapel is in a state of insubordination, and if it remains so till next Conference it will be left off the list of Conference charges, and cease to appear in our official Minutes."

In accordance with this, Bishop —— gave special instruction to the presiding elder to give certificates of membership to all loyal members desiring to remove their relation to some other Church.

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At the session of the — Conference in 1862, these terms, not having been complied with, — Chapel was stricken by the presiding Bishop from the “list of Conference charges.”

In all this, so far from seeing anything to censure, the Committee believe the administration to have been wise and just, and that Bishop — is to be commended for the firmness with which he maintained the Discipline and order of the Church. (*Journal, 1864, 357, 358.*)

**A Missionary Bishop may ordain in a foreign country outside of his jurisdiction if no General Superintendent is accessible and the Disciplinary requirements have been observed.**

Concerning the memorial referred to the Committee on Episcopacy to ascertain “whether any Missionary Bishop has ordained any person to the ministry outside his missionary field; and, if so, by what authority?” Also, “whether any Missionary Bishop of our Church has ordained any deaconess or deaconesses; and, if so, by what authority?” we find that Bishop ——— ordained in England a brother, recommended in Africa by the African Con-

## BISHOPS.

ference, and intended for the work in Africa, and, after investigating the facts, we report that it shall not be deemed a breach of order for a Missionary Bishop, while traveling in a foreign country, though outside of his missionary field, to ordain a minister belonging to that field, there being no General Superintendent accessible, and the Disciplinary preliminaries to ordination having been observed. (*Journal*, 1892, 440, 441.)

**In the deliberations of the Book Committee, Bishops are present only in order to concur or not, in the action of said Committee filling vacancies.**

Your Committee has considered the matter embraced in the following preamble and resolution, passed by the General Conference, to wit:

“WHEREAS, The right of the Bishops to take part in the deliberations of the Book Committee, pending the election of an editor or agent, has been questioned; and

“WHEREAS, Several members of the Book Committee of the last quadrennium have filed a petition (see page 15 of the report of the Book Committee), asking the General Confer-

## GENERAL CONFERENCE DECISIONS.

ence to define the duties and the rights of our General Superintendents in the election of an editor or agent by the Book Committee; therefore,

*“Resolved, That this question be referred to the Committee on Judiciary, with instructions to consider it and report their conclusions to this body.”*

And it respectfully reports: While the language of the Discipline bearing upon the question involved (paragraph 416) is obscure, and its meaning is not easily determined, the Committee is of the opinion that when vacancies are to be filled the General Superintendents are not present as part of a joint committee, nor for the purpose of joint action in any particular with the Book Committee, but they are present as a separate body to hear the action of the Book Committee, and their only function is to concur or refuse to concur in that action. They may take part in any discussion had by the Book Committee only by virtue of its request or permission. (*Journal, 1892, 487, 488.*)

**Bishops may not vote in Annual Conferences.**  
(*Journal, 1904, 514.*)

## BISHOPS.

**Legal decisions of Bishops outside Annual Conferences can not be pleaded as having the force of law.**

WHEREAS, Under the rule which says, "A Bishop shall decide all questions of law in an Annual Conference subject to an appeal to the General Conference," a custom has grown up of evoking Episcopal decisions touching the administration of the Discipline outside of the Annual Conferences; and

WHEREAS, These decisions and opinions are sometimes in conflict with each other, springing up from questions growing out of peculiar and ever-varying circumstances; and

WHEREAS, It is the judgment of this Conference that the use made of the rule aforesaid was not intended by the General Conference which established it, that General Conference intending it for the administration of the Conferences, and not of the individual pastors; therefore,

1. *Resolved*, That every administrator of the Discipline is responsible to the proper authorities for his administration of the rules of the Church, and may not plead Episcopal decisions as law.

## GENERAL CONFERENCE DECISIONS.

2. *Resolved*, That while the counsels of our Superintendents are to be highly respected, and to be considered of great value in the administration of Discipline, their decisions are not to be regarded as having the force of *law* outside of the Annual Conferences. (*Journal*, 1860, 428.)

In answer to the memorial of ———, in reference to the usage in Annual Conference of asking for Episcopal decisions when no case requiring them is before the body, the Committee present the following resolution for the adoption of the General Conference:

*Resolved*, That we deem it inexpedient for a Bishop, presiding at an Annual Conference, to render formal decisions of questions of law presented in fictitious cases, and where the subject is not involved in the proceeding pending, nor should any such decisions be entered upon the Conference Journals. (*Journal*, 1868, 495.)

**The ruling of a Bishop on a question of law to be binding must be rendered in open Conference and made a part of its record.**

Your committee, having carefully reviewed the records of appeal in the case of the ——— Methodist Episcopal Church, of ———, Kas.,

## BISHOPS.

to the President of the Southwest Kansas Conference, from the decision of the Presiding Elder of the ——— District in said Conference, report as follows, to-wit:

It appears, from the records, that ———, a member of the ——— Methodist Episcopal Church, was tried on a charge of immoral conduct. A verdict of guilty was rendered by the committee and a judgment expelling him from the Church was pronounced by the preacher in charge.

An appeal was taken by the said ——— to the District Triers of Appeals of members. The Presiding Elder of the ——— District, presiding in the said court of appeals, on motion of the counsel for the appellant, remanded the cause for a new trial on the ground that no minutes or records of the evidence taken had been preserved by the trial court, or presented by the said preacher in charge, or otherwise, to the said court of appeals, as required by the Discipline. That from this decision of the District Triers of Appeals the Church appealed on a question of law to the President of the next Annual Conference. The President of said Annual Conference, Bishop ———, did not return his decision upon said appeal in open ses-

## GENERAL CONFERENCE DECISIONS.

sion of said Conference, but did, after the adjournment thereof, render a ruling confirming the decision of the Presiding Elder, which ruling is endorsed on the record in the case, and before us. In this condition the case is before us for review. It does not come to the General Conference by appeal. It can not. Your committee, however, holds that, in view of the condition of the case, as hereinbefore stated, the General Conference can review the case as if before it on writ of error, or *certiorari*, and give adequate relief. In the opinion of your committee, the ruling of a Bishop on such an appeal, to constitute a decision of binding force and effect, must be rendered in open session of Annual Conference, and should be made a part of the records of the same.

Your committee finds no error in the decision of the Presiding Elder remanding such case for a new trial. Section 273 of the Discipline makes it the duty of the preacher in charge to "present exact minutes of the evidence and proceeding in the trial from which the appeal is taken," to the appellate court. That duty is not incumbent upon the accused. The failure of the preacher in charge to present such min-



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utes constitutes an error, for which the case should be remanded for a new trial.

Your committee therefore recommends that this case be remanded to the President of the ——— Annual Conference, with directions to cause the decision on such appeal to be rendered in open session of said Conference, in conformity with the views herein expressed.

Upon said case being remanded, the said ——— shall be considered as being reinstated in all the rights and privileges as a member of the Church, under charges, until a new trial is had, or the charges are withdrawn. (*Journal, 1908.*)

### **A Districted Episcopacy is unconstitutional.**

I. Your committee, to whom by resolution of this body was referred the question of the constitutionality "of assigning General Superintendents to particular sections or districts, for periods of four years, with the possibility of continuing said General Superintendents in said districts for a longer period," beg leave to report that they have endeavored to give this subject the serious and deliberate consideration which its importance demands.

The resolution evidently contemplates a ter-

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ritorial division of our Church work, for the purposes of episcopal supervision, to each part of which a General Superintendent shall be assigned, and within which, also, his itinerate labors must be confined. The proposition, therefore, upon which we are called upon to pass is whether, under our organic law, such a limitation of their fields of itinerancy, legally, can be imposed upon the Board of Active Bishops.

II. The Methodist Episcopal Church was organized in 1784. An essential feature of its polity was what has been styled a "moderate episcopacy." This took the form and became familiar as a system of itinerant general superintendency, commensurate with the entire territory of the Church. No legislation then prescribed this kind of itinerancy. This was treated as inherent in and belonging to the office of Bishop. By their notes on the Discipline, written by request of the General Conference of 1796, Bishops Coke and Asbury quite clearly bring this out. In discussing our form of episcopacy, and particularly its itinerant features, after showing that Timothy and Titus "were traveling Bishops," they add, "Whatever excellencies other plans may have, this"—the Methodist—"is the primitive apostolic plan."

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The principle that the obligation of general itinerancy under our plan attaches to the office of Bishop also is illustrated and made manifest by an enactment of the organizing Conference of 1784. This provided a penalty against any General Superintendent who, "without the consent of the Conference," should "cease from traveling at large among the people." As there was then no Disciplinary law imposing this duty, the only basis of the penal act, evidently, is the proposition that the obligation was inherent in our plan of episcopacy; in which event, so long as this plan is preserved, general itinerancy is a duty of the Bishops.

Moreover, as we think, this "plan" presented an antithesis, deliberately worked out and intended, to the diocesan or district systems included in the episcopates of the English and Roman Catholic Churches. Itinerant general superintendency was a distinctive and characteristic feature of Methodist Episcopacy, as a localized supervision is of theirs.

III. This "plan" continued without essential change down to 1808, although, in virtue of its sovereign power in our ecclesiastical system, the General Conference, at or prior to that time, might have modified or abolished it. By

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the session of that year, however, a delegated Conference was created, under the limitations of constitutional government. This then familiar "plan" of itinerant general superintendency, as well as episcopacy, was before the sovereign Conference which framed our Constitution and received the consideration of that body. The members well knew its history and operation, and also the concatenated duties and powers that attached to and by force, both of law and custom, were settled incidents of this plan. Under these circumstances, what was done? Without the slightest alteration in its structure, or the least modification of its practice, the system was made an integral part of our polity by a constitutional provision, still in the organic law, which is as follows: "The General Conference shall not change or alter any part or rule of our government so as to do away episcopacy, nor destroy the plan of our itinerant general superintendency."

IV. In the light of the foregoing history, and for the purposes of the question submitted to our determination, we think this clause from the fundamental law sufficiently defines the "plan" which the General Conference is debarred from destroying. It is and ever has been

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the Methodist, as against all other plans of episcopal supervision—as the Constitution states—“our” plan. So, also, it was and is a plan of “itinerant general superintendency”—not local—but ever coextensive with the widening spread and work of the Church. This much, assuredly, is clear and indisputable. Such, then, being the “plan,” which the Constitution so far defines and protects, how stands the regulation contemplated by the resolution, with respect to it?

As we have seen, this looks to localizing, by territorial limitation, the itinerant superintendency of the Bishops—confining them for four years or more to districts which the Conference shall mark out. The simple statement of the proposition, in view of what has been shown, renders its conflict with the organic law apparent. By its operation, if put in force, the Bishops would at once be made local superintendents—exercising their powers of supervision over what in other systems is known as a diocese. This seems so clear as to preclude debate, yet it becomes, as we conceive, decisive of the question before us. For, if the Conference thus may individualize and restrict the field of episcopal work during one quadrennium, such action could be repeated session after session. Consequently,

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by that process the labors of our General Superintendents might be wholly localized—the character of their itinerancy radically changed, at the will of this body—thus entirely destroying the constitutional plan and the kind of episcopacy established by the fathers. Nor is a limitation upon their itinerant general superintendency for a single quadrennium less repugnant to the organic law. The obvious reason for this is that such a restriction upon their traveling at large among the people would totally destroy the plan during the period named; and argument hardly can be needed to show that this body is invested with no more power to trench upon the protection which the Constitution affords to this plan for four years than for forty.

V. The act of 1874, to which reference was made, implies a duty, inhering in our system of general superintendency, of traveling “at large among the people.” For nearly six score years, also, this duty has been recognized and performed by our Bishops. The practice has been uniform, the custom unbroken. This long and settled usage defines and so puts beyond reasonable doubt what is meant in our organic law by “itinerant general superintendency,” if that was ever open to question. More-

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over, up to this time our Bishops and Conference have been at one upon that subject. By more than a century of practical construction, therefore, the import of this constitutional "plan" has been wrought into our history—written in action of unmistakable character along its whole course. We deem it of importance to bring these circumstances to the attention of the Conference. In the civil realm it is well settled that a long period of practical construction by legislative and executive departments, charged with the duty of administering a constitutional provision, will be adopted by the courts, unless manifestly repugnant to the purposes intended by the framers of the Constitution. On this principle, as seems clear to us, the practical construction applied since the restrictive rule in question was adopted, should be regarded as conclusive against the power of the General Conference to distribute the work of the Bishops by districts, instead of leaving them to travel at large, were the proposition otherwise in doubt.

VI. None will fail to observe, as we trust, that the conclusions reached are grounded upon the wide difference between the powers of the General Conference before and since 1808. As has been stated, up to the close of the session

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in that year, the governing body was sovereign and supreme. Hence, in their Notes on the Discipline, written 1796-1800, Bishops Coke and Asbury, with strict accuracy, could say that our Bishops were "entirely dependent on the General Conference." But upon the establishment of a constitutional system of Church government, in 1808, this condition was changed. The "plan" of "our itinerant general superintendency," which previously to that time had been at the mercy of the General Conference, by the Third Restrictive Rule, was put beyond the power of the delegated Conference to destroy. Therefore, so far as respects their duties and right by virtue of that plan, the Episcopal Board, during active service and good behavior, no longer are dependent upon the Conference. In these particulars its members and their office alike are under the ægis of the organic law, which our governing body is powerless to change or override.

VII. Equally, then, by the terms of the Constitution and the cogent force of a practical construction of its provisions, uniform, and as old as the instrument itself, we feel constrained to say that this body is debarred from taking the action contemplated by the resolution referred to us. In our opinion such a regulation



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would necessarily operate to “destroy” the “plan of our itinerant general superintendency,” whether the limit be for four years or a longer period. All of which is respectfully submitted. (*Journal, 1904, 514.*)

## CHAPTER IV.

### CONFERENCES.

**The General Conference has no power to divide the Church.**

There exists no power in the General Conference of the Methodist Episcopal Church to pass any act which, either directly or indirectly, effectuates, authorizes, or sanctions a division of said Church. (*Journal, 1848, 73.*)

**The General Conference may not dispose of, sell, or bargain away Church property.**

The following question, submitted by —, was referred to the Committee:

“Has the General Conference of the Methodist Episcopal Church, either directly or through a commission appointed by said Conference, the legal right to deed, sell, give, or in any way dispose of, or transfer a church house or parsonage, held according to the law of the

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State and the Discipline of said Church by trustees properly appointed, to or for the use of members and ministers of another Church or denomination, or for any other use or purpose, without the consent of the trustees and other parties interested in it, under the Discipline of the Methodist Episcopal Church?" This question the Committee answer in the negative. (*Journal*, 1880, 380.)

**The General Conference may not deprive members of the Church of their rights except by due process of law.**

It is the right of every member of the Methodist Episcopal Church to remain in said Church, unless guilty of the violation of its rules, and there exists no power in the ministry, either individually or collectively, to deprive any member of said right. (*Journal*, 1848, 73.)

**An Annual Conference has no jurisdiction over a Local Elder.**

A memorial presented by —, of the — Conference, submits the record of the action

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of that Conference, by which it deprived ——, a local elder, of his credentials, and asks a decision as to the legality of said action. The record shows that a member of the Conference called attention to the fact that the said ——, who lived within the bounds of that Conference, did not then have membership in any Church, and that he had not had such membership for twenty years past, and moved that the Conference demand the return of his parchments. The motion was passed, and the parchments were demanded and returned. Was this action legal? . . . As local preachers of all grades are thus made amenable to the District or Quarterly Conference, the Annual Conference had no jurisdiction, and, therefore, the action of —— Conference in the above case was not legal. (*Journal, 1888, 455.*)

**An Annual Conference may not strike a member's name from the Conference-roll without authority of law.**

Your Committee has carefully examined the records and documents in the matter of the appeal of the Rev. ——, of —— Conference, from the action of said Conference in striking

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his name from the Conference-roll, and reports as follows:

The records do not disclose any withdrawal from said Conference by said ———, and we are of the opinion that the action of said Conference in striking his name from the Conference-roll was made under a misapprehension of the facts in the case, and without authority of law.

Your Committee, therefore, recommends that his name be restored to the rolls of said Conference, without prejudice, so that he may be required to answer any charge that may be brought against him arising out of the matter in question. (*Journal*, 1896, 423.)

On the memorial of the California Conference respecting the case of Rev. ———, your committee reports:

First—It appears that for more than twenty years the said ——— was a member and elder in the said Conference, during most of which time he was a professor in the ——— College, within the bounds of the said Conference; that, when the said college closed, he was supposed to have been transferred to the Holston Annual Conference, and his name omitted from the roll of the California Conference. This, it has

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lately been found, was an error and the omission of his name from the roll unwarranted. After an interval of ten years or more, during which time the said ——— did not report to said Conference, he made application for the restoration of his name to the Conference-roll. At its recent session in September, 1903, said Conference appointed a committee to inquire into his life and character during the interval stated, and to memorialize the General Conference for direction in the case. That committee made the inquiry, as directed, and found that during the time involved the said ——— was teaching in Tennessee, was also employed by the National Government in Washington, D. C., and in the Philippine Islands.

The committee also found and reported that during this interval the life and conduct of the said ——— have been in keeping with his profession as a Christian man and that he has not failed in Christian duty, and finally it unhesitatingly affirms its confidence in him as a Christian minister.

Second—In view of the foregoing facts, this committee finds that the said California Conference was in fault in omitting the name of the said ——— from its roll; that the said

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brother also was in fault in not annually reporting to his said Conference, and that during said interval the said ———, in law, remained and so still is a member of the said California Conference. (*Journal, 1904.*)

**A Conference may not reflect upon a minister in a report and then deny him a trial.**

Your Committee on Judiciary, having carefully reviewed the records on appeal in the case of ———, of the ——— Conference, report as follows, to-wit:

It appears by the records that, in October, 1906, a committee was appointed by the order of said Conference to investigate the case of ——— and to take whatever action they might deem wise.

After said committee was appointed, the relation of said ——— was changed from effective to supernumerary, without making provision to have the investigation conducted according to paragraph 222, section 4, of the Discipline.

The committee proceeded to investigate the doctrinal soundness of said ———, but did not summon him or notify him or his representa-

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tives to appear before them. The committee, in reporting to the Conference at the session held in October, 1907, without giving specifications or presenting any evidence, reported that they believed that the said ——— was not in harmony with the doctrine and Discipline of the Methodist Episcopal Church, and at the same time recommended that the Conference do not proceed to the extremity of a trial, but that it make a deliverance protesting against un-Methodistic, destructive, and divisive teachings in any of our theological schools.

The report of this committee was adopted by the Conference, and thereafter the Conference passed the character of said ———, but refused to reconsider the adoption of the report of the committee.

Demand was thereupon made by said ——— for immediate trial, but the Conference deferred action upon his demand for one year. A motion to expunge from the report of the committee all reflection upon the character of said ——— was laid upon the table.

There appears to be no Disciplinary provisions for the report of the committee or the action of the Conference in adopting such a report. The report of the committee was a re-



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flection upon the character of said ———. It was the duty of the Conference to grant him a trial upon his demand therefor, or to expunge from the report of the committee all reflections upon his character. The Conference neglected and refused so to do. Your Committee on Judiciary therefore recommend that the action of the committee appointed by the ——— Conference to investigate the case of the said ———, and the action of said Conference in adopting the report of such committee, be declared null and void. (*Journal, 1908.*)

### **General Conference has power to change boundaries.**

The following question was referred to us by the General Conference on May 14th, namely:

“Has the General Conference the power so to change the boundary of an Annual Conference as to either diminish or enlarge the territory of an adjoining mission?”

To this question we answer: Yes. The General Conference has supreme power over Annual Conference boundaries, and may establish or change them at its pleasure, under such rules and regulations as it may itself enact. (*Journal, 1908.*)

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**Boundaries of a Mission are not protected by the Discipline as are those of an Annual Conference.**

The following question was referred to us by the General Conference May 18th, viz:

“Do the conditions and limitations in Paragraph No. 437 of the Discipline protect the boundaries of a Mission as they do the boundaries of an Annual Conference?”

To this we answer, No. The said conditions and limitations apply to organized Annual Conferences only. (*Journal, 1908.*)

**Missions in lands foreign to the United States, though under government of the United States, are Foreign Missions.**

To your committee has been referred by the General Conference the question whether the Philippine Islands can, in view of their present relation to the United States, be classed as a foreign mission and placed under the jurisdiction of a Missionary Bishop. The answer to this question will turn on the construction to be given to the words “foreign missions,” as used in section 3 of article 10 of the Constitution,

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familiarly known as the Third Restrictive Rule. As it seems to us, these words must be understood to describe (1) missions in countries foreign to the Government of the United States, or (2) missions in countries foreign to the United States in America. We are of the opinion that the latter is the sense in which they were employed by the framers of this section, and that, therefore, they refer to missions in lands beyond the seas—lands foreign to our shores.

But we are now confronted by new conditions. The Government of the United States has crossed the seas and has taken possession of lands on the other side of the globe. Before such possession was taken, all must agree that missions established there would have been naturally classed as "foreign missions." Now, does the fact that our Government has secured possession and established jurisdiction there so change the situation that a mission there must for this reason cease to be a "foreign mission" and become a home mission? We think not. The power to classify its missions and direct in their administration is in the Methodist Episcopal Church, and not in the Government of the United States. If we hold that the exten-

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sion of the jurisdiction of our Government to an island beyond the seas so changes our relation to it as a Church that it can not be made a "foreign mission," then we admit that the Government of the United States has power to change the classification of our missions, overturn the missionary policy therein, and even to unfrock our Missionary Bishops. To such a doctrine we can not assent. In the United States in America it is clear that under the restrictive rule there can be no "foreign missions," but elsewhere the General Conference, exercising for this purpose the sovereign authority of the Church, may classify its missions as it deems best and may administer them at its pleasure. We are, therefore, of the opinion that the General Conference has the power to declare the Philippine Islands a "foreign mission," and to elect therefor a Missionary Bishop. (*Journal, 1904.*)

**An Annual Conference may not elect to Ministerial Orders one who is under expulsion by another Conference. Such orders are null and void.**

The Committee on Judiciary, to which was referred the memorials in the case of ———, reports:

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(1) That the alleged facts are that ———, an elder in the Kansas Conference, in 1895 did “withdraw under complaints” of immorality from the ministry and membership of the Methodist Episcopal Church, by consent of the Kansas Conference, and surrendered thereto his credentials.

(2) That the said ——— did soon after join the Church in Oklahoma and did by successive steps come to the point of being received into full membership in the Oklahoma Conference and of being elected to Deacon’s Orders; that the said ——— and the Oklahoma Conference did more than once ask the Kansas Conference to restore the credentials of the said ———, that he might be a member in orders in the Oklahoma Conference, and the Kansas Conference did by unanimous vote refuse the requests. Thereupon the Oklahoma Conference did elect ——— to full membership in said Conference and to Deacon’s Orders, and he was ordained by Bishop ——— at the ——— session of the Oklahoma Conference.

(3) The questions raised by the memorials are, first, the legality of the election of ——— to membership in the Oklahoma Conference, and hence his ministerial standing; second, the

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legality of the election of ——— to Deacon's Orders by the Oklahoma Conference, and of his ordination.

(4) Your committee find that the law covering this case at all points is in paragraphs 234 and 235 of the Discipline, which provide that the relation to the Church of a minister who has "withdrawn under complaint" is the same as that of a minister who has been expelled, viz., that he "shall have no privileges of society or sacraments in our Church without contrition, reformation, and confession satisfactory to the Conference from which he was expelled."

It is plain to your committee that under this law, until the Kansas Conference is satisfied with the contrition, reformation, and confession of ———, he can have no privileges of society or sacraments in our Church; that hence he can not be received legally into any Conference, nor can he be elected to orders. The Bishop presiding should not have entertained the motion in either case. The action of the Oklahoma Conference in each case was illegal; the ordination of ——— was illegal, and the membership in the Oklahoma Conference

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and the Deacon's Orders thus obtained by  
——— are each null and void. (*Journal*,  
1904.)

**An Annual Conference is continuous as an organized body.**

Concerning the question of the continuous character of an Annual Conference, referred to this committee by vote of the General Conference, we would respectfully report that Article 3, Part I, of the Constitution, says:

“The traveling preachers shall be organized by the General Conference into Annual Conferences, the sessions of which they are required to attend.”

From this it would appear that an Annual Conference, when properly organized, becomes a legal entity, and continues to exist until it ceases by reason of loss of its membership, or it is lawfully dissolved. Individual members come in as provided by law, and go out under the laws of nature, or of the Church, but the Conference itself continues. It has power to adopt rules for its government and rules of order for its annual sessions, the same to continue at its pleasure, and to be amended or repealed

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as it may provide. In short, it is a permanent body and may govern itself accordingly, under the Constitution and laws of the Church. (*Journal, 1904.*)

**An Annual Conference, once legally organized, exists until dissolved by General Conference.**

“In view of the constitutional provision which requires twenty-five members to organize an Annual Conference, your Committee on Boundaries reports that there are several Annual Conferences with less than this number of members, and suggests that the matter be referred to the Committee on Judiciary for an opinion as to the status of such Conferences under the Constitution.”

In reply we express the opinion that the status of a legally-organized Annual Conference is not affected by the fact that its membership falls below the number required by the Constitution for the organization of an Annual Conference. A duly-organized Annual Conference continues to exist as such and retains all the rights and powers thereof until it is dissolved or changed by the General Conference. But the General Conference, in the organization of



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new Conferences, or in changing the boundaries of Conferences, may not so change any existing Conference as to reduce its membership below the constitutional numbers. And we venture to suggest that the General Conference should so exercise its undoubted constitutional powers in this matter as to provide that such Annual Conferences as fell below the required number shall be by consolidation, or otherwise, brought up to that number, or that they shall be reduced to the status of Mission Conferences. (*Journal*, 1904.)

### **If an Annual Conference divides, each part is an Annual Conference.**

Your Committee, to whom was referred the following,—“*Resolved*, That the Judiciary Committee be requested to consider the following question, and report on Monday next, ‘If so much of an Annual Conference be set apart that the remaining territory contains a less number of ministers than is required to constitute an Annual Conference, should this remaining territory be constituted a Mission, or does it continue to be an Annual Conference?’”—respectfully report that, in our opinion, such territory continues to be an Annual Conference. (*Journal*, 1896, 425-6.)

## GENERAL CONFERENCE DECISIONS.

**When an Annual Conference is divided, there should be an equitable division of the property belonging to said Conference.**

*Resolved*, 1. By the delegates of the several Annual Conferences in General Conference assembled, That it is recommended to every Annual Conference contemplating a division, to provide, where it can be done legally, for an equitable division of the property belonging to said Conference, so as to give each of those made out of it, its proportion, according to the number of its members, as nearly as may be.

*Resolved*, 2. That when a Conference is divided without having made such previous arrangement for a division of property, such arrangement shall be made as soon thereafter as may be; in which case the property should be divided according to the number of members composing each; and if the principal of any property or legacies belonging to said Conference may not be divided, the proceeds thereof should be annually divided between them in the same ratio. (*Journal*, 1836, 457-8.)

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**An informal withdrawal from membership in an Annual Conference does not place the member withdrawing beyond jurisdiction of the Conference.**

In the matter of the appeal of —, of the — Conference, the Judiciary Committee respectfully report:

That it appears that, at a session of said Conference, the following question of law was propounded:

“Has a member of a Conference a right to withdraw therefrom, there being no official charges presented against him, in the interim of the sessions of the Conference; and, if he withdraw, does he cease to be a member of the Conference from the time of his withdrawal?”

The presiding Bishop gave the following answers:

“1. It is the right of any member of a Conference to give notice of withdrawal from the Conference, through the proper officer, when there are no charges presented against him.

“2. But the withdrawal is not complete until the Conference with which he was connected takes action upon it.”

From this decision the present appeal was taken. Your Committee report that, in their

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opinion, the answers given above were correct, and that the appeal should not be sustained. (*Journal*, 1880, 380.)

**A member of an Annual Conference may not appeal from the record of his withdrawal under charges from membership in the Conference, such withdrawal being recognized by the Conference and entered on its journal.**

“When a member of an Annual Conference gives notice to the Conference that he has withdrawn from the Church or Conference, and at the same time there be charges ready to be presented against him, and he has knowledge of such charges previous to his notice of withdrawal, and he has been marked upon the Journal of the Annual Conference as withdrawn under charges, has such member the right to appeal to the General Conference from such record of the Annual Conference?”

*Answer.* He has not. (*Journal*, 1860, 298.)

**Missionary Committee may not refuse appropriations required by Charter of the Missionary Society.**

The Committee on Judiciary, having been instructed by the General Conference to give

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an opinion on the question whether the Missionary Committee had a right, in harmony with the letter and spirit of Article XI of the Constitution of the Missionary Society, to leave out of its budget of appropriations the amount specified in said article, for unforeseen emergencies, reports as follows:

It is the opinion of the Committee on Judiciary that the Missionary Committee is required by Article XI of said Constitution to include the amount specified therein for unforeseen emergencies in its annual appropriations.

**When Annual Conferences are divided, missionary appropriations must be divided.**

The following resolution was moved by —, and adopted:

*Resolved*, That where Conferences have been divided, the Bishops are hereby instructed to make a distribution of the missionary money appropriated to the several Conferences affected by such division. (*Journal*, 1860, 308.)

**A vote of two-thirds of an Annual Conference is necessary to disallow claims of superannuated or supernumerary preachers.**

The ruling of Bishop — in the — Conference, in relation to disallowing the claim of

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superannuated and supernumerary preachers, referred to the Committee, has been duly considered.

The following extract from the Journal of the Conference presents the whole case:

The stewards, as the Committee on Claims, reported, and when their report was before the Conference, Bishop — ruled that the rule in the Discipline under the general head of Annual Supplies, part iii, chapter iii, section v, should be construed so as to allow the claims of all the superannuated and supernumerary preachers, and the widows and orphans of deceased preachers, and that to *disallow* their claims, in whole or in part, requires a vote of *two-thirds* of the Conference.

The Committee recommend to the General Conference that the ruling in this case be approved. (*Journal*, 1860, 429.) But see Dis. 1908; ¶ 309.

**The recommendation by a Quarterly Conference for a renewal of license to exhort must be granted.**

*Question.* In case a Quarterly Conference recommend the renewal of the license of an exhorter, is the presiding elder under obligation to renew the license?

*Answer.* He is. (*Journal*, 1860, 228-9.)

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The jurisdiction of a Quarterly Conference over a preacher on trial in an Annual Conference does not extend beyond authority to try him if accused of crime.

The Committee on Episcopacy respectfully present the following report to the General Conference:

After considering the paper referred to the Committee, appealing from the decision of the Bishop who presided at the last session of the — Conference, touching the jurisdiction of a Quarterly Conference over a preacher on trial, the following resolution was adopted:

*Resolved*, That we approve of the ruling of Bishop — in the case before us, which is to the effect that the only jurisdiction which a Quarterly Conference has over a preacher on trial for membership in an Annual Conference is to try him when accused of crime. (*Journal*, 1872, 253.)

In relation to the question in paragraph 99, section 1, page 71, of the Discipline, "Are there any complaints?" referred to the Committee on Judiciary for an interpretation, the Committee present the following report:

The question refers only to those persons who are amenable to the Quarterly Conference, and to those offenses of which said Conference has

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jurisdiction. It does not refer to members of Annual Conferences who are amenable elsewhere. The Quarterly Conference has jurisdiction over preachers on trial in an Annual Conference who may be accused of crime, and over the official and moral conduct of local preachers, and may hear complaints against them when presented in due form. With these exceptions, the question refers only to official misconduct of members of the Quarterly Conference. For their moral conduct they are accountable to the same tribunals as are private members of the Church. (*Journal, 1884, 376.*)

**A Quarterly Conference may remove Trustees at will, subject to State and Disciplinary law.**

The Bishops are frequently called upon to explain paragraph 328 of the Discipline, so as to tell when and by what method trustees may or may not be "ejected" from office, and they desire the General Conference to declare whether the Quarterly Conference has power to discontinue the service of trustees at will.

In the opinion of the Committee, it is in the power of the Quarterly Conference to remove trustees at any time for cause where statutes of the State do not prevent; subject, however, to the provisions of paragraph 328 of the Discipline. (*Journal, 1892, 490.*)



## CHAPTER V.

### ELECTIONS.

**Laymen** are members of the Church who are not members of the **Annual Conferences**.

A RESOLUTION submitted to the General Conference by —, of the — Conference, and referred to the Committee on the State of the Church, was duly considered, and the following resolution was recommended for adoption by the General Conference:

*Resolved*, That, in all matters connected with the election of lay delegates, the word “laymen” must be understood to include all the members of the Church who are not members of the Annual Conferences. (*Journal*, 1872, 442, N. J.)

**Eligibility of a located minister to election as a lay delegate to the General Conference is conditioned by the time he has been a member of the Church, not by the time he has been a lay member.**

*Question.* Has a Methodist preacher, who has not been located for five full years, such membership as a layman in the Methodist Epis-

## GENERAL CONFERENCE DECISIONS.

copal Church as the Discipline requires in order to eligibility to election as lay delegate to the General Conference?

*Answer.* Yes; provided he has been a member of the Church for five consecutive years. The Discipline does not require that he should have been a *lay member* for five consecutive years to make him eligible to such election. (*Journal, 1888, 453.*)

**An alternate delegate to a seated delegate in General Conference is entitled to the seat vacated by another member of the same delegation.**

—— was elected by the Lay Electoral Conference of the —— Conference as an alternate for ——, and —— was elected alternate for ——; and as both —— and —— have been by this General Conference declared ineligible to the seats to which they were elected, can the said —— take the seat in this body thus made vacant?

*Answer.* “Yes; —— having taken the seat to which he was elected, and there being a vacancy in the seat of the other lay delegates, and —— having been duly elected as an alternate delegate, in our opinion he is entitled to the vacant seat. (*Journal, 1888, 453.*)

## ELECTIONS.

**Dissent from any Disciplinary mode of voting for delegates to General Conference, adopted at the discretion of an Annual Conference, is without redress.**

The memorial of the Rev. —, of the — Conference, being equivalent to an appeal on a point of law from the action of the — Conference, and the ruling of the presiding Bishop whereby such an action was allowed, rejecting the vote of the said — for delegates to the General Conference, because he voted for more than one delegate on one ballot, the said Conference having ordered the election to proceed for one delegate and one only on each ballot, has been duly considered, and the following report is presented:

1. There is no disagreement as to the facts. A resolution was adopted by the Annual Conference in the following words:

*“Resolved, That, in the election of delegates to the General Conference, we ballot for one at a time, each ballot to contain but one name; and when one delegate has thus been chosen, successive ballots be taken in the same manner for others until the whole number to which the Conference is entitled shall be selected.”*

## GENERAL CONFERENCE DECISIONS.

2. — did protest against the said action, and his protest was recorded in the Journal.

3. The Bishop did decline to rule the action illegal.

4. The ballot of the said —, not conforming to the resolution above recited, was thrown out, and he was practically disfranchised.

The question turns wholly upon the legality of the action of the — Conference in deciding to elect but one delegate at a time. If that action was illegal, — was right in refusing to conform to it, and the Conference, in throwing out his vote, illegally deprived him thereof. But if the action was legal, he, by refusing to conform to it, disfranchised himself. Was, then, the action of the Conference, under which the vote of — was necessarily thrown out, legal? The Discipline, paragraph 63, says: "The ministerial delegates shall consist of one member for every forty-five members of each Annual Conference, to be appointed either by seniority or choice at the discretion of such Annual Conference." The power to decide whether by "seniority or choice," taken in connection with the words "at the discretion" implies the right to appoint one or more by seniority, and one or more by choice. This priv-

## ELECTIONS.

ilege is of such a nature that it carries with it the right to choose in any way.

The usage, it is true, is to vote for all on one ballot; but this usage is not prescriptive.

It is a custom, not a law. The Conference had power to make any rule which admitted of the expression of preference by choice, and gave to all legal voters equal privileges. It did so in this instance, and the memorialist has no legal ground of complaint. (*Journal, 1884, 373-4*)

### **Members may not be deprived of rights of franchise.**

We have carefully considered the memorial from the —— Conference, signed by —— and others, touching the rights of ministers and members in certain specified cases, and beg leave to submit the questions asked, together with our answers:

*Question 1.* Is it competent or lawful for the Church in any department of administration to deprive a member of any privilege members have been accustomed to enjoy, such as meeting in class and love-feast, communing at the Lord's table, or voting at any election, and having his vote counted, without first proceeding against him in regular form of trial as provided in the

## GENERAL CONFERENCE DECISIONS.

Discipline and convicting him of some violation of the rules? -

*Answer.* It is not competent for the Church to deprive any one of its members who is in good standing of any privilege to which he is entitled under the law, unless he shall insist upon using his privilege in an irregular or unlawful manner.

*Question 2.* Does the law of the Church giving the Annual Conferences the right to decide whether the delegates to the General Conference shall be appointed by seniority or choice imply the right to compel the voters to limit their ballots to one name when more than one are to be chosen?

*Question 3.* Is it lawful for the Annual Conference to reject and throw out, without counting, the vote of a member for delegates to the General Conference for any cause?

*Question 4.* Is it lawful and right for an Annual Conference to annex any penalty of any kind whatever, or so to construe any resolution or rule of action, as to imply a penalty or disability to enjoy any privilege of a member?

*Answer.* Questions 2, 3, and 4 were in substance submitted to the General Conference of 1884, and by it completely answered (see Journal, page 373), an epitome of which may be

## ELECTIONS.

found in Paragraph 514 of the Discipline, as follows: "When an Annual Conference is entitled to more than one ministerial delegate to the General Conference it is not unlawful for the Conference to ballot for one delegate at a time." We therefore deem further decision unnecessary. (*Journal, 1888, 453-4.*)

**When a disputed question concerning Disciplinary requirements as to time a lay delegate has been a member of the Church has been passed upon by an Electoral Conference, it is not lawful to go behind the election returns of that body.**

The Committee, to whom was referred the inquiry, whether ——, a lay delegate to the General Conference from the —— Conference, had been a member of the Church in full connection for the five consecutive years preceding his election, having had the matter referred to them under consideration, beg leave to report:

That indefinite statements were made before the Committee, of an inconclusive character, tending to raise some doubt whether said delegate had been in full connection with the Church for the five years immediately preceding his election. But it also appeared, from the statement

## GENERAL CONFERENCE DECISIONS.

of the secretary of the ——— Conference, made to the Committee, that the same question had been brought to the notice of the Electoral College who chose said delegate, and that said college did not consider them worthy of consideration, and had chosen said delegate notwithstanding. The said delegate has been seated upon credentials in due form; no one contests his right to his seat in the General Conference; no remonstrance has been filed against his remaining therein.

Under these circumstances, the Committee have not felt warranted in going behind the action of the ——— Electoral Conference, and see no sufficient reason for questioning said delegate's right to his seat. They, therefore, ask leave to be discharged from any further consideration of the matter so referred to them. (*Journal, 1880, 266.*)

**A ministerial delegate to the General Conference must have traveled four full consecutive calendar years.**

WHEREAS, The Discipline requires that a delegate to the General Conference shall have traveled four full calendar years *from the time* of entering the traveling connection; and



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WHEREAS, The words "from the time," in corresponding portions of the Discipline, imply consecutive years of service; and

WHEREAS, —— has not served for four consecutive years as a traveling preacher previous to the session of this Conference; therefore,

*Resolved*, That, on this ground, he is not entitled to a seat in this General Conference; and

WHEREAS, If the fragmentary terms of service of ——, previous to the time of his leaving his work, be added together, he still had not traveled four full calendar years previous to leaving his work during the current year; therefore,

*Resolved*, That, on this ground, he is not entitled to his seat; and

WHEREAS, ——has been absent from his work since about August 10, 1879, without the consent of his presiding elder; and

WHEREAS, On account of this absence the interests of an important charge have been greatly damaged; therefore,

*Resolved*, That his term of service since August 10th should not be added to the previous fragments of his term in order to complete the required four full calendar years; and

## GENERAL CONFERENCE DECISIONS.

WHEREAS, ——— has unquestioned credentials as a reserve delegate; and

WHEREAS, He has been in his seat continuously from the opening of the session, attending to all the duties of a delegate; therefore,

*Resolved*, That ——— be continued in his seat, and authorized to draw the amount of his traveling and other expenses. (*Journal*, 1880, 325.)

### **Mission Conferences may not elect delegates to General Conference.**

The Judiciary Committee, to whom was referred the resolution, offered by Dr. A. B. Leonard, to admit to seats in the General Conference the delegates from the South Japan Mission Conference, respectfully report:

The South Japan Mission Conference is described in Paragraph 440, Section 10, of the Discipline, and it belongs to the class of Mission Conferences included in Paragraph 86.

This Conference now has a membership of twenty-six, one more than the number required for an Annual Conference, and if that Conference had been organized as an Annual Confer-

## ELECTIONS.

ence, it would have been entitled to representation in this General Conference.

This Mission Conference elected provisional, ministerial, lay, and reserve delegates to this General Conference, and they now ask to be admitted to seats in the Conference.

By the Constitution of 1900 (Appendix, Paragraph 35, Articles 2 and 3, Part 2), only Annual Conferences and Lay Electoral Conferences connected therewith are entitled to representation in the General Conference. By Paragraph 86 of the Discipline, a Mission Conference is vested with many of the powers possessed by an Annual Conference, but it is there expressly declared that a Mission Conference "shall not elect delegates to the General Conference nor vote on constitutional changes."

It seems clear that until the South Japan Mission Conference is organized as an Annual Conference, it can not be represented in the General Conference.

As the matter now stands, we are of the opinion that the provisional delegates chosen by this Mission Conference can not be admitted as members of this General Conference. (*Journal, 1904.*)

## GENERAL CONFERENCE DECISIONS.

**A mis-translation of law is not law.**

In the matter of the eligibility of ——— as lay delegate to the General Conference, 1908.

———— was elected lay delegate to the General Conference of 1908 by the Lay Electoral Conference of the ——— Conference, May 31, 1907.

Until two years prior to his election he had been pastor of the Church. He was a member of the Conference more than five years, but a lay member only two years.

Paragraph 39, section 5, of the Discipline, provides that lay members, "having been lay members of the Church five years next preceding," shall be eligible to General Conference.

The German translation of the Discipline, which German translation was followed in this case, omitted the word "lay" from said clause, so that it read that a member shall be eligible who has been "a member of the Church five years next preceding."

Under such provision, ——— would have been eligible.

As a result of the improper translation of this section and paragraph of the Discipline into German, the Conference and ——— have both been made to suffer because of a mistake in their

## ELECTIONS.

copy of the Discipline over which they had no control and upon which copy they had good reason to rely and act.

While this is to be very much regretted, nevertheless your committee find that, under the law as set forth in Section 39, Paragraph 5, and under the facts submitted, Brother —— was not eligible to become a lay delegate to the General Conference of 1908. (*Journal, 1908.*)

**Failure to elect full number of delegates to General Conference can not be remedied after adjournment of Annual or Electoral Conference.**

On the paper referred to the Committee on Judiciary respecting the admission of a reserve delegate from the Oklahoma Annual Conference, and also a reserve delegate from the Oklahoma Lay Electoral Conference, as delegates to this General Conference, your committee reports:

The presentation of the case shows:

1. That on the day set apart for the election of delegate by the said Annual and Lay Electoral Conferences, respectively, the number of members on the roll of the Oklahoma Annual

## GENERAL CONFERENCE DECISIONS.

Conference entitled each of these said Conferences to two delegates.

2. That two delegates were elected by the Annual Conference, and two reserve delegates.

3. That the Lay Electoral Conference elected two delegates, and then adjourned *sine die*.

4. That, subsequently to said elections, and prior to the final adjournment of the Annual Conference, by readmissions and transfers thereinto, the membership on the roll of said Annual Conference was increased to a number which would have entitled said Conference to three delegates to the General Conference had such transfers and readmissions been made prior to said election.

5. That, in the absence of information respecting the non-counting and non-voting, in the respective Conferences from which they were transferred, of some of the said transferred members, and inasmuch as the said Lay Electoral Conference had then finally adjourned, on the suggestion of the Bishop presiding the said Annual Conference did not order nor hold an election for a third delegate.

The claim is now made that a vacancy exists in the delegations, respectively, of the Oklahoma

## ELECTIONS.

Annual and Lay Electoral Conferences, and that the first reserve delegate from each of these Conferences is entitled to a seat in this General Conference.

Your committee is of the opinion that as the said Annual and Lay Electoral Conferences, respectively, failed to elect a third delegate, the said claim is not well founded, and that the said reserve delegates are not entitled to admission to membership in this General Conference.

## CHAPTER VI.

### MEMBERSHIP.

**Informal admission to Church membership is no bar to proceedings in case of trial.**

“MAY a person who has not been formally received into full connection in the Church, but has for a term of years enjoyed all the privileges of a member, and is supposed, by the preacher in charge and society, to be a member, plead the fact of his non-reception as a bar to proceedings in case of alleged immorality?”

*Answer.* No. (*Journal*, 1860, 298.)

**Properly-authenticated certificate of membership must be accepted.**

“Is a preacher in charge obliged to receive a properly-authenticated certificate of a member when he is aware such reception would disturb the peace and quiet of the Church?”

*Answer.* It is the duty of the preacher to re-



## MEMBERSHIP.

ceive all such certificates. (*Journal*, 1860, 298.)

**The only requisite for membership in a Sunday-school Board is Church Membership.**

The Committee has had under consideration the matter of the appeal of — from the decision of Bishop —, made at the session of the — Annual Conference in the year 1889, and respectfully reports as follows:

The Bishop held, upon an appeal from the ruling of the presiding elder made at the Quarterly Conference of the — Methodist Episcopal Church, that it was not necessary that the persons appointed as members of the Sunday-school Committee by the Quarterly Conference, under paragraph 346 of the Discipline (edition of 1888), should, prior to their appointment, be members of the Sunday-school Board, but that the only prerequisite to their appointment was membership in the Church.

It was claimed by the appellant that only such persons as were already members of the Board could be appointed members of the Committee.

It is clear that the Board is made up of the pastor, the officers and teachers, and the Com-

## GENERAL CONFERENCE DECISIONS.

mittee appointed by the Quarterly Conference. The Board can not have an existence until the Committee is appointed, and it would be impossible to appoint a Committee from a Board which did not exist. The provision in paragraph 346, that the members of the Committee shall be members of the Board, is only an unnecessary repetition of the provision in paragraph 345.

The decision of Bishop —— was correct, and it should be affirmed. (*Journal, 1892, 488.*)

**Membership illegally obtained is null and void.**

In the matter of the appeal of —— against the ruling and action of Bishop —— in the Central Illinois Conference, it appears that one, ——, had been regularly tried by the said Conference, convicted, and expelled from the ministry and membership of the Methodist Episcopal Church; that subsequently certain members of the —— Quarterly Conference petitioned the said Annual Conference to allow the said —— to again unite with the Church; that when a motion was made in the said Conference to grant this permission, objection was made to its submission on the ground

## MEMBERSHIP.

that it involved a violation of the law of the Church, ——— not having complied with the requirements of Paragraph 234 of the Discipline, which says: “After a minister shall have been regularly tried and expelled, he shall have no privilege of society or sacraments in our Church without contrition, reformation, and confession satisfactory to the Conference from which he was expelled;” that, notwithstanding this objection, the question was submitted to a vote, which resulted in a tie, whereupon the Bishop gave the casting vote in the affirmative and declared the motion carried; that the said ——— has taken advantage of this alleged permission to secure membership in the Church.

On these admitted facts, we report:

First—That the above question should not have been submitted to the Conference, as it involved a violation of the law of the Church.

Second—That the Bishop erred in voting in the case, as the Bishops are not members of the Annual Conference and have no right to vote therein under any circumstances.

Third—That, as the said ——— had not complied with the requirements of the Discipline touching confession, contrition, and re-

## GENERAL CONFERENCE DECISIONS.

formation; and as the action by which he claimed the right to again seek membership in the Church was illegal, we find that the membership he has thus secured is null and void. (*Journal, 1904.*)

## CHAPTER VII.

### ORDERS.

**The ministerial orders of the Roman Catholic Church can not be recognized by the Methodist Episcopal Church.**

AT the session of the —— Conference, beginning March 4, 1848, a preacher who had come to our Church from the Roman Catholic Church, and who, while a member of that Church, had been ordained a priest, applied in due form to be recognized as an elder in the Methodist Episcopal Church on the ground of his ordination to the priesthood in the Roman Catholic Church. Pending this application, the question was raised as to his eligibility to recognition under the provision of the Discipline, in paragraph 155, section 2, for the recognition of the orders of ministers of “other Evangelical Churches” who may desire to unite with us; whereupon the president of the Conference held, that this applicant is not legally qualified for recognition under the section of the Discipline,

## GENERAL CONFERENCE DECISIONS.

the Roman Catholic Church not being an "*Evangelical Church*" within the meaning of that term as therein used.

The Committee, after a careful examination of this question, report that the above ruling is correct, and for the reason therein stated. (*Journal, 1884, 373.*)

**A minister coming from an Evangelical Church having but one ministerial order, may be received either as deacon or elder.**

Your Committee has considered the matter of the appeal of — from the ruling of Bishop —, made at the — Annual Conference at its session in 1890, and respectfully reports:

—, a minister of the "Brethren Church," applied for admission to the — Annual Conference. The Brethren Church has but one order of ministers. The question being raised as to *whether said — should be received as a deacon or elder*, —, a member of the Conference, and the appellant here, raised the point that he could only be received as an elder.

Bishop —, presiding, ruled that he could be received *either as deacon or as elder*, in the discretion of the Conference, and thereupon the Conference, by vote, admitted him as a deacon.

## ORDERS.

The Committee is of the opinion that the ruling of Bishop —— was correct, and it should be affirmed. (*Journal*, 1892, 488-9.)

### **Women are not eligible to ministerial orders.**

In the matter of the appeal of ——, of the —— Conference, in the case of Sister ——, the Judiciary Committee respectfully report: That it appears from the record that Sister —— had been recommended to orders by a Quarterly Conference, and, upon said recommendation coming before the said Annual Conference, Bishop ——, then presiding, gave the following decision, to wit:

“In my judgment the law of the Church does not authorize the ordination of women; I, therefore, am not at liberty to submit to the vote of the Conference the vote to elect women to orders.”

Your Committee have come to the conclusion that such ruling was in accordance with the Discipline of the Church as it is, and with the uniform usage of administration under it.

The Committee, therefore, report that said appeal should not be sustained. (*Journal*, 1880, 353.)

## GENERAL CONFERENCE DECISIONS.

### **Women may not be licensed to preach.**

In the matter of the appeal of —, of the — Conference, the Judiciary Committee respectfully report that it appears from the record certified to us that, at — District Conference, held February 27, 1878, Sister — was licensed as a local preacher, whereupon — appealed from the action of said Conference.

Bishop —, presiding at the — Annual Conference, upon the coming in of said appeal, made the following decision:

“In strictness the appeal should have been made from the decision of the president of the District Conference, in entertaining and putting to vote the motion to grant such license, since the Discipline puts upon him the decision of all questions of law in the District Conference, and provides for appeal therefrom. (*Discipline, par. 163, sec. 6.*) Waiving this informality, I give my judgment that the Discipline of the Church does not provide for nor contemplate the licensing of women as local preachers, and that, therefore, the action of said Conference, and of its president, was without authority of law.”

The Committee report that they have come



## ORDERS.

to the conclusion that such ruling of the presiding Bishop was in accordance with the Discipline of the Church as it is, and with the uniform course of administration under it. We, therefore, report that said appeal should not be sustained. (*Journal, 1880, 353-4.*)

## CHAPTER VIII.

### PREACHERS.

**Supernumerary and superannuated preachers have the right to vote in the Quarterly Conference where they reside.**

THEY also wish a declaration as to "whether, according to paragraphs 191, 192, superannuated and supernumerary preachers residing out of the bounds of their Conferences are members of the Quarterly Conference where they reside in such sense as to entitle them to vote therein."

In the opinion of the Committee, superannuated and supernumerary preachers residing out of the bounds of their Annual Conferences are members of the Quarterly Conference where they reside in such sense as to entitle them to vote therein. (*Journal, 1892, 490.*)

**Substitution of other designation than "superannuate" does not affect legal status of superannuates.**

The following question was submitted to us, the Committee on Judiciary, by the General

## PREACHERS.

Conference, upon the request of the Committee on Revision, to-wit:

“Would the substitution of the word ‘retired’ for the word ‘superannuated’ affect the legal status of superannuates or societies for the benefit of superannuates named in wills, legacies, etc.?”

To this we answer: “In our opinion, it would not.” (*Journal*, 1904.)

**A preacher in charge has the right to control the religious services of our Church within his charge.**

The following question has been submitted:

“When a superannuated, supernumerary, or local preacher makes an appointment and conducts religious services within the bounds of a station, circuit, or mission, to which a pastor has been appointed, without the consent of the pastor, is the preacher thus obtruding his services guilty of improper conduct, and subject to charges and trial?”

*Answer.* The appointment of a preacher to the charge of any mission, circuit, or station, implies the right to control the religious services of our Church within its bounds. (*Journal*, 1884, 377.)

**A suspended preacher has no claim for salary during his period of suspension.**

Your Committee, to whom was referred the following question, namely,—“What claim has a traveling preacher on a congregation or an Annual Conference for his salary, who has been tried and suspended in the interval of Annual Conference sessions, and the Annual Conference, on further investigation, finds him not guilty of the crime for which he has been suspended?”—have carefully considered the same, and report that, while they recognize and are mindful that to deprive a traveling preacher of his salary while suspended on unsustained charges works a hardship, yet your Committee submit that, by the law of the Methodist Episcopal Church, where a traveling preacher is suspended and restored, as in the case stated herein, he has no claim on the congregation or the Annual Conference for his salary during such period of suspension; and to your Committee this law appears to be wise, as well as based upon sound judicial principles. (*Journal, 1884, 380.*)

## PREACHERS.

**A suspended preacher has no right to exercise ministerial functions till his ministerial disabilities are removed.**

*See the case mentioned on page 39.*

**A transfer made without request of the minister transferred carries with it the right to an appointment.**

The Committee on Judiciary have given attention to the following questions, presented by Bishop Andrews for adjudication:

“Can a Bishop, in accordance with the Discipline and usages of the Church, with or without the desire of a preacher holding an effective relation, transfer said preacher, without at the same time giving him an appointment in the Conference to which the transfer is made; and, if so, under what conditions and limitations?”

To this question the Committee give the following answer:

The Episcopacy of the Methodist Episcopal Church is a unit, and our economy assumes harmony of action. But Bishops are many, and in the division of the work into different Conferences presided over by different Bishops, a Bishop can, in accordance with the Discipline

## GENERAL CONFERENCE DECISIONS.

and usages of the Church, transfer an effective preacher, with or without his desire, into a Conference under the jurisdiction of another Bishop without at the same time himself giving him an appointment. But every effective preacher is entitled to an appointment within the Conference of which he is a member. His transfer to another Conference carries with it this right, and should not, therefore, be made without at the same time making adequate provision in a regular manner for its protection. Nevertheless, if a preacher requests such a transfer to a Conference, not to meet for some time after his transfer, he can not complain if he does not receive work till the next ensuing session of the Conference. (*Journal, 1884, 371-2*)

**A District Superintendent may not give certificate of withdrawal to a superannuate of another Conference.**

The following question and answer are from the Journal of the — Conference, and were referred to the Committee:

“When a superannuated member of a sister Conference, residing in the bounds of our Conference, concludes to withdraw from the Church,

## PREACHERS.

can the presiding elder give him a certificate of withdrawal?"

*Answer.* No.

We respectfully recommend concurrence in the decision of the Chair as the correct ruling.

### **An Elder on Trial may be appointed District Superintendent.**

The Committee on Judiciary was instructed to inquire and report whether a Bishop may legally appoint an elder who is on trial in an Annual Conference to the office of Presiding Elder; and we would respectfully report that we find nothing in the law of the Church to forbid such appointment.

**Those who are licensed to preach must first be examined according to Discipline. License otherwise obtained is null and void.**

In the memorial of ——— and others of the ——— Conference, it appears that one, ———, was regularly tried and expelled from the ministry by that Conference, but not from membership in the Church. The said ——— then transferred his membership to some Church within the ——— District, ——— Conference, while he continued to reside at ———. Later,

## GENERAL CONFERENCE DECISIONS.

the District Conference of that district granted him license to preach in his absence. This action is challenged by the memorialists as being in violation of the law of the Discipline, which requires the candidate for license to preach to be present for examination in doctrine and Discipline. This challenge is hereby sustained, as Paragraph 197, Section 1, of the Discipline, says that those who are licensed to preach must be "examined in the presence of the Conference on the subject of doctrine and Discipline." We find, therefore, that the said license is illegal and void.

### **Papers not owned by the Church can not be subsidized by the Church.**

At a recent session of the General Conference, the following resolution was adopted:

"WHEREAS, Paragraph 46, section 6, of the Discipline, known as the Sixth Restrictive Rule, says:

"The General Conference shall not appropriate the produce of the Book Concern, nor of the Chartered Fund, to any purpose other than the benefit of the traveling, supernumerary, and superannuated preachers, their wives, widows, and children,' and



## SUBSIDIES.

“WHEREAS, The General Conference, at its session on Saturday, granted certain subsidies of money and paper which appear to be in conflict with said Sixth Restrictive Rule, now, therefore, be it

“*Resolved*, That the Committee on Judiciary be, and is hereby, directed to consider the action taken granting these subsidies, and report to the General Conference at the earliest date practicable, and on Wednesday, if possible, whether or not said action is contrary to the Sixth Restrictive Rule.”

Responding to the said resolution, your committee have considered the inquiry so submitted and beg leave to report:

First—We assume the question thus stated has reference to the recent order or resolution adopted by this Conference, providing for an appropriation of money and paper to the ———, owned and published by the Book Concern at New Orleans, La., and for a similar appropriation to the ———, a religious journal owned and published by private parties at ———.

Second—In our opinion, the appropriation to the ——— Advocate, a paper owned by the Book Concern, and for the maintenance and support of which it is legally responsible, is

## GENERAL CONFERENCE DECISIONS.

not prohibited by the Sixth Restrictive Rule of our Constitution.

Third—In our opinion, the appropriation or subsidy in aid of the Advocate ———, which is not owned by the Book Concern, and for the maintenance and support of which said Concern is not legally responsible, is clearly prohibited by the restrictive rule above mentioned. (*Journal, 1908.*)

## CHAPTER IX.

### TRIALS.

**The Chairman of a Select Committee may not dismiss a complaint.**

THE Committee on Itinerancy having examined that part of the Journal of the —— Conference which relates to the case of ——, referred to them for consideration, would report that, as it appears, charges and specifications were preferred against the said brother, and referred by the Conference for trial to a Select Number of nine, according to the Discipline, with a chairman appointed by the Bishop. On the assembling of the Select Number, their chairman, without the consent of the Committee, dismissed the case on account of informality and indefiniteness in the charges and specifications. Notice was given that the action in the case would be brought before this

## GENERAL CONFERENCE DECISIONS.

General Conference. Your Committee recommend for adoption the following, namely:

*Resolved*, That the Select Number appointed to try accused members of an Annual Conference act in the case in the stead and with the powers of the Conference itself, and its chairman is in the place of the Bishop. It is therefore improper for the chairman in such a case to dismiss a complaint. (*Journal*, 1864, 360.)

**An accusation of slander can not be received if not signed by the person claiming to be slandered, nor if signed by him immediately after the defect has been pointed out.**

In the matter of the appeals from the rulings of Bishop —, made at the — Annual Conference in the year 1889: The presiding elder having received charges in writing against —, a member of the — Annual Conference, summoned a Committee of Investigation. The Committee having met, upon motion of counsel for the defendant the presiding elder struck out the second charge, which charge was slander. Said charge had not been brought or signed by the person alleged to have been slandered, and upon this ground the charge was stricken out. The pre-

## TRIALS.

siding elder also held that the Committee must decide only upon the charges made, and that it had no authority to bring in a verdict of a different offense from that charged, unless the same was germane to the original charge. From these rulings an appeal was taken, and the same came before Bishop —, who presided at the next session of the — Annual Conference. He sustained the rulings of the presiding elder, except he held that the presiding elder, on receiving charges, may rule out such as are not actionable before he cites the accused to trial or calls a Committee; but having placed charges in the hands of the Committee and furnished the accused with a copy, his right to change the bill of charges is at an end.

Your Committee is of the opinion that the ruling of the Bishop was correct, save that, under the circumstances of this case, it was proper for the presiding elder, upon motion of the accused, to strike out the charge of slander. (*Journal, 1892, 490-1.*)

**A Judicial Conference has no authority to formulate a new charge.**

The Rev. —, of the — Conference, was brought to trial before a Select Number upon

## GENERAL CONFERENCE DECISIONS.

two charges: the first, immorality, with one specification; the other, lying, with three specifications.

The first charge and specification, and the second charge and the second and third specifications, were sustained, and he was sentenced to deposition from the ministry and expulsion from the Church.

Having appealed, the case came before the Judicial Conference held at Columbus in December, 1891. The Judicial Conference reversed the finding upon the specifications of the second charge and the second charge. It reversed the finding upon the first charge, but did not reverse the specification under that charge. Then, to quote the language of the record, the Conference "agreed that the testimony presented to this Judicial Conference in support of the specification under the first charge proves that the Rev. —— has been guilty of imprudent and unchristian conduct," and it thereupon suspended him from the ministry until the next session of the Annual Conference.

The specification not reversed under the first charge is very vague and indefinite, and it is doubtful whether it is sufficient to sustain any charge. The Judicial Conference did not find

## TRIALS.

it sufficient, but from the testimony it formulated a new charge, of which it then found the accused guilty.

Your Committee is of the opinion that the Judicial Conference in this affirmative action exceeded its authority, and that the sentence of suspension should be vacated, and the accused be restored to all the rights of a traveling preacher. (*Journal*, 1892, 491-2.)

**In order to affirm or reverse the decisions of a lower court, the whole of the findings must be considered.**

*Resolved*, by the delegates of the several Annual Conferences, in General Conference assembled, That the decision of the —— Conference, in the case of ——, by which it voted that he had been guilty of violating his pledge, and of contumacious conduct, be, and hereby is, reversed.

The chair decided the above out of order, as not embracing the whole of the action or findings of the —— Conference in this case, stating that the Conference must affirm or reverse the decision, or, for want of formality, refer it back for a new trial.

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On motion of —, an appeal was taken from the decision of the chair.

The decision of the chair was sustained.

— moved to reconsider the vote sustaining the decision of the chair. Laid on the table.

— moved the following:

*Resolved*, by the delegates of the several Annual Conferences in General Conference assembled, That the decision of the — Conference, in the case of —, be affirmed.

The call for the yeas and nays was sustained.  
(*Journal*, 1852, 51-2.)

**Evasion of law is violation of law, and acts done under the same are null and void from the beginning.**

The Committee on Judiciary has carefully considered the memorial of the Troy Annual Conference in relation to the trial and expulsion of — from the — Street Church, in —, and also the trial of Rev. — by the "Select Number" appointed by the — Conference at its last session, wherein the said — was found guilty of maladministration, and also the memorial and petition of the Rev. —, in answer to the memorial of said — Annual Con-



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ference, and find that, after the trial and expulsion of said —— from said —— Street Church, in ——, the said Rev. ——, being stationed at ——, and —— Charge, in the —— Conference, did receive the said —— into said society on probation, and at the end of six months thereafter did receive said —— into full membership, without “contrition, confession, and satisfactory reformation” on the part of said ——, the said —— having knowledge of the trial and expulsion of said —— from said Church.

Your Committee are of the opinion that membership in the Methodist Episcopal Church can not be gained in the above manner, under such conditions and circumstances, as the whole proceeding was fraudulent, and evasive of the disciplinary action of the Church at ——, which was well known to said —— and said —— to be in violation and derogation of the Discipline of the Church.

And your Committee are of the opinion that the said —— is not a member of the Church, and has not been such member since his trial and expulsion from the said —— Street Church, ——.

And your Committee recommend that the

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following be added to the resolution of the General Conference of 1852, page 73, namely:

“Nevertheless, when a member has been expelled from the Church, and has thereafter gained admission into the Church elsewhere, without ‘confession, contrition, and satisfactory reformation,’ according to paragraph 238, his membership is null and void, and any certificate of such membership, should not be received.”  
(*Journal, 1884, 378.*)

**New trials may not be granted or findings reversed, in whole or in part, on technical grounds.**

The following paragraph contained in the Address of the Bishops, has been referred to the Judiciary Committee for their opinion thereon:

“It has been necessary to convene a considerable number of Judicial Conferences during the quadrennium. Our observation leads us to commend to your consideration the question whether these Conferences ought to be longer permitted to reverse the finding of the ‘Select Number,’ or of an Annual Conference; or to remand a case for a new trial on merely technical grounds, or because of errors in the proceedings of the

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Court below, which errors do not materially affect the question of the guilt or innocence of the applicant.”

The hearing of the appeals referred to in the above, is regulated by paragraphs 245 and 246 of the Discipline,—the charges and specifications, with the minutes of the trial, and all the documents relating to the case, are to be presented to the Judicial Conference, and upon this record alone is the case to be decided.

(Paragraph 245.) The point suggested by the Bishops, as we understand it, is, whether the judgment of the Court below should be reversed, and a new trial granted for technical errors not affecting the merits.

We think it should not, with certain exceptions, of a special character, not necessary to be noticed here.

Courts of law, as well as of equity, have very generally adopted the rule of deciding appeals according to the very right of the case, disregarding such errors of the lower tribunal as plainly could not have affected the result. Informalities in the mode of proceeding, not prejudicial to the rights of the parties—even erroneous rulings in the admission or rejection

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of testimony, where such errors have been corrected at a subsequent stage of the trial, or when it is apparent they have not led to a decision different from what would otherwise have been reached—should not be allowed to vitiate a judgment which stands upon solid grounds, unless the Appellate Court, however, can see clearly that the errors complained of, have not operated to the substantial injury of the appellant, a new trial should be ordered.

This view of the case derives confirmation from paragraph 247, which provides, that “the General Conference shall carefully review the decisions of questions of law contained in the records and documents transmitted to it from the Judicial Conferences, and, in case of *serious error* therein, shall take such action as justice may require.”

The general purpose of the code, seems to be to secure substantial right, rather than to concern itself with unimportant errors.

A “serious error,” is one affecting a substantial right; any other mistake should not be permitted to interfere with the course of justice.

Our conclusion is likewise in harmony with the report of the Judiciary Committee of the

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General Conference of 1880, and the action of the Conference thereon, in a case coming from the —— Conference. (*See Journal of 1880, page 354.*)

But, for greater certainty in this respect, and also to give the Judicial Conferences the right in proper cases to modify the decision appealed from, we propose the following, to be added at the end of paragraph 246: "It may affirm or reverse the findings and decision of the Annual Conference, or affirm in part, and reverse in part; but it shall not reverse the same, or remand the case for a new trial, on account of errors plainly not affecting the result." (*Journal, 1884, 370-1.*)

In the matter of the appeal of ——, of the —— Conference, from the decision of a Judicial Conference, the Judiciary Committee report, that while an informality occurred upon the trial before the Conference Committee, it does not appear to have been objected to, and it was not of a nature to give rise to any suspicion of injury to the accused.

If objection had been made at the time, the irregularity could have been avoided; it should, therefore, be regarded as waived.

There does not appear to have been any

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serious error committed, nor any injustice done to the accused. We, therefore, report that said appeal should not be sustained. (*Journal, 1880, 354.*)

**Technical errors of slight significance are not sufficient ground for reversal of judgment.**

Your Committee on Judiciary, having carefully reviewed the appeal of Rev. ———, a member of the Dakota Conference, respectfully report as follows:

The said Rev. ——— was tried before a Select Number of said Conference, appointed by Bishop ——— at ———, October 12, 1906. The charges against him were:

(1) Immorality, with the specification of extreme and repeated cruelty to his wife.

(2) Unchristian conduct, with the specification of ignoring worship and all public means of grace.

The first charge was sustained under the specification of extreme and repeated cruelty to his wife. The second charge of unchristian conduct was also sustained. The said ——— was deposed from the ministry by the ——— Conference. Thereupon the said Rev. ——— appealed to the Judicial Conference convened by

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Bishop ——— at ———, December 12, 1906. The case was heard in due form by Triers of Appeals, and the action of the Annual Conference was sustained. The said ——— then appealed to the General Conference from the decision of the Judicial Conference.

A careful examination of all the points raised show them to be without serious force. The facts, in brief, are: In November, 1905, almost a year before the Conference trial, the wife of said ——— obtained a final and absolute divorce from him in the civil court. The case was thoroughly tried; both appearing, and voluminous testimony was heard and weighed, with the result that an absolute divorce was granted to Mrs. ——— on the ground of extreme and repeated cruelty. Copies of this decree and of the main evidence on which it was granted were produced in the Conference trial, and were the basis of the action of the Conference in convicting said ——— of immorality and in deposing him from the ministry.

The records show that the accused had due notice of the charges against him and opportunity to defend himself; that both the Conference trial and the trial by the Judicial Con-

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ference were in due and regular form, and that the technical errors alleged are of slight significance and value, and do not affect the main issue or the result of the trial.

Your committee is therefore of the opinion that the decision of the Judicial Conference should be affirmed. (*Journal, 1908.*)

**A Judicial Conference may affirm in part and reverse in part the findings of a lower court.**

Your Committee has carefully examined the records and documents in the case of —, a minister of the — Annual Conference, tried upon certain charges and found guilty, and which case was afterward, upon appeal, heard by a Judicial Conference, and the decision of the Annual Conference affirmed in part and reversed in part. And your Committee reports that it finds no serious error in the proceedings, and that no action is required therein. (*Journal, 1892, 490.*)

**A Judicial Conference may modify the sentence of a lower court without any modification of the findings of said court.**

In the matter of the complaint of — and —, touching the decision of the Judicial Con-



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ference in the case of the Rev. —, a member of — Conference:

During the session of the said — Conference, held at —, the said — was brought to trial before a Select Number under a charge of “gross deception.”

The charge was sustained, and the defendant was deposed from the ministry of the Methodist Episcopal Church. The defendant appealed from this decision, and the said appeal was tried, —, at —, by a Judicial Conference, composed of Triers of Appeals from the —, —, and — Conferences, Bishop — presiding. The following verdict was rendered by the said Judicial Conference: “The Judicial Conference, in the case of the Methodist Episcopal Church *vs.* —, hereby modifies the penalty from expulsion from the ministry, to suspension from the ministry until the ensuing session of his Conference.”

Against this decision, — and —, of the counsel of the Church, complain, “challenging the action of the Judicial Conference on the ground that it violated the law of the Church in modifying the sentence of the lower court without any modification of the finding.”

Your Committee is of the opinion that the

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decision of the Judicial Conference was in harmony with the law in the case, and recommends that it be affirmed. (*Journal*, 1900, 456.)

**A Judicial Conference can not modify the sentence of an Annual Conference if charges and specifications are sustained and a new trial denied.**

Regarding the case of —, the Committee reports:

At the session of the — Annual Conference, held in the year 1888, charges were brought against said —, then a member of that Conference. He was charged, among other things, with *dishonesty*, there being two specifications: First, that he had collected certain moneys for a periodical named, and had converted them to his own use; and, second, that he had received money from the treasurer of his Church for the purpose of paying certain bills of the Church, and had converted it to his own use. He was also charged with *imprudent and unchristian conduct*, the specification referring to certain acts with respect to a young woman, named.

At the trial, the above-mentioned specifications were sustained, and the charges were sustained, and he was deposed from the ministry.

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Having been appealed, the matter came before a Judicial Conference, composed of Triers of Appeal from —, —, and — Annual Conferences, Bishop — presiding.

The Judicial Conference voted to reverse the finding upon the first specification of the first charge, but sustained the finding upon the other specification of the first charge, and sustained the specification of the second charge and the charge, and it voted not to remand the case for a new trial. Thereupon Bishop — ruled that the Judicial Conference could not then modify the penalty imposed by the Annual Conference.

The Committee is of the opinion that the ruling of Bishop — was correct, and it should be affirmed. (*Journal, 1892, 489.*)

**Signers of charges and witnesses in a case can not be members of a court trying the accused.**

Your Committee has had under consideration the matter of the appeal of — from the decision of Bishop —, made at the session of the — Annual Conference in the year 1892, and respectfully reports as follows:

—, a member of the — Society, — Circuit, — Conference, was charged, among

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other things, with immoral conduct, to-wit, lying. Upon this charge he was convicted and expelled from the Church. He took an appeal to the Quarterly Conference. Five members of said Conference had signed the charges on which he was tried in the court below, and two members of said Conference were witnesses against him in the court below.

At the trial before the Quarterly Conference (——, presiding elder), Mr. —— made a motion not to allow the five persons who had preferred the charges against him and the two persons who had been witnesses against him in the court below to vote upon the case, and that they be ordered to retire from consideration of the same. This motion the presiding elder overruled, to which ruling —— excepted, and the charge being sustained, appealed to the Bishop of the —— Annual Conference.

Bishop ——, presiding, sustained the ruling of the presiding elder, and held that all members of said Quarterly Conference who had signed said charges had a right to vote on the guilt or innocence of said ——, to which ruling said ——, through his counsel, excepted,

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and thereafter perfected an appeal from said decision to the General Conference.

Your Committee is of the opinion that the decision was erroneous, and it recommends that the decision be reversed, and that the case be remanded for a new trial by the Quarterly Conference. (*Journal, 1896, 423.*)

**Members of a Judicial Conference, not being present, it is not lawful for those who are present to hear the case or to pass judgment.**

In the case of the Judicial Conference, held at —, to hear the appeal of — from the action of the — Conference, it appears that only two of the triers were in attendance; but, by agreement of all parties interested to waive objections and abide the decision of the triers present, the appeal was tried, and the decision of the Conference reversed.

In the judgment of your Committee this procedure was unauthorized by the law in the case, and would therefore be an unsafe precedent to follow. But, inasmuch as the result seems to have been generally satisfactory, and justice does not seem to require further action, we recommend the General Conference to let it pass without further notice. (*Journal, 1876, 335.*)

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Select Committee have power only to hear evidence and determine questions of fact.

The following questions relating to the "Select Number" appointed by the Annual Conference to try cases, as provided in Paragraph 230, Section 3, were submitted to us by the General Conference upon the memorial of the Montana Annual Conference, to-wit:

1. Does the "full power" now conferred upon them to "consider and determine all cases" give them power to determine questions of law and testimony and procedure, or is that power vested in the president appointed in the absence of a Bishop?

2. What number is necessary to constitute a verdict—unanimous, a majority, or a two-thirds vote?

3. What shall constitute proper testimony, without cross-examination?

4. Is it possible to have proper testimony without an opportunity of cross-examination by the accused, either oral or written?

To the first question we answer as follows: The "Select Number" appointed by the Annual Conference have full power to consider the evi-

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dence and determine all questions of fact in the cases before them. They have no power to determine questions of law or procedure. The Bishop, or the chairman appointed in the absence of the Bishop, has full power to consider and determine all questions of law and procedure, including questions as to the admissibility of evidence.

To the second question we answer—a majority.

To the third and fourth questions we answer as follows: Reasonable opportunity for cross-examination should be afforded. If the accused fail to avail himself of such opportunity, testimony may be properly taken and used without cross-examination. (*Journal, 1908.*)

**An Annual Conference is not obliged to put a member on trial where there has been no previous investigation.**

Your committee has also had before it a complaint made by Mrs. ——— against Bishop ——— as president of the ——— Annual Conference in 1906, in that he referred charges brought against a member of that Conference

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to a committee of the Conference for preliminary investigation and report, instead of putting the accused on trial before the Conference.

There was no error in the course pursued, and no ground of complaint.

Under Paragraph 222, Section 7, an Annual Conference may put on trial an accused member where there has been no previous investigation, but it is not obliged so to do.

The committee has also considered the complaint made by Mrs. ——— against Bishop ———, as President of the ——— Annual Conference in 1908, in pursuing the same course in reference to charges preferred by her against a member of that Conference. For reasons above stated there was no error in the course pursued.

Your committee therefore recommends that the appeal in these three cases be dismissed. (*Journal, 1908.*)

**No serious error in findings of an Annual Conference, the decision of a Judicial Conference will be affirmed.**

Your committee, having carefully considered the records on appeal in the case of ———,



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a member of the ——— Annual Conference, respectfully report:

That the said ——— was charged with immoral, unchristian, and unministerial conduct. That he was duly tried before a select number at the annual session of said Conference, held in September, 1905. He was found guilty of the charges and was suspended from the ministry and membership of the Methodist Episcopal Church. An appeal was then taken by him from the decision of the Annual Conference, to the Judicial Conference, held December 5, 1905, Bishop ——— presiding. At the Judicial Conference the findings of the Annual Conference Select Number were confirmed. The said ——— then appealed to the General Conference from certain rulings made by Bishop ——— at the Judicial Conference. These rulings and exceptions thereto are specifically set forth in the record on appeal.

In our opinion, no serious errors of law have been committed therein, and the decision of the Judicial Conference should be affirmed and the appeal dismissed. (*Journal, 1908.*)

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**A Committee of Trial or Select Number can not hold a session after final adjournment of Conference for the trial of a minister.**

We have been instructed to consider and report whether a Committee of Trial (or Select Number) may hold a session, after the final adjournment of the Annual Conference, for trial of a minister.

We find no specific law in this case. "The Committee of Trial" or "Select Number" is evidently only the representative of the Annual Conference, and subject to its laws of action. Specific provisions are made for proceeding against an accused minister "in the interval of the Annual Conference," which precludes the method of trial by the Committee of the Annual Conference.

It seems hardly logical to say the Annual Conference can perpetuate its existence after its official adjournment, or that the *Annual Conference* can meet more than once a year.

It is, therefore, the opinion of the Committee that the question referred to them should be answered in the negative. (*Journal, 1864, 355.*)

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**Questions determining testimony are questions of law.**

*Resolved*, That questions relating to the admissibility of testimony are questions of law. (*Journal*, 1848, 127.)

**If a preacher takes an adjudged case from a Select Committee to a Quarterly Conference for trial, it is an application for a new trial.**

*Resolved*, That when a preacher, who differs in judgment from the majority of the society, or the Select Number, concerning the guilt or innocence of an accused person, carries up the trial to the Quarterly Conference, it is an application for a new trial.

*Resolved*, That in no case of an appeal, can new evidence be admitted. (*Journal*, 1848, 127.)

“Is there in the Discipline anything authorizing a Quarterly-meeting Conference to remand a case for a new trial?”

*Answer*. When the preacher in charge differs “in judgment from the majority of the society, or the Select Number, concerning the guilt or innocence of the accused person,” and refers the case to the Quarterly Conference, that body has “authority to order a new trial.” (*Dis-*

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*cipline, p. 99.)* And in other cases, the power to remand for what the Conference may deem sufficient cause, is inherent in that body as an appellate court. (*Journal, 1860, 301.*)

**Testimony taken before a Committee, in the case of a member of an Annual Conference, is evidence in the same case before an Annual Conference.**

*Resolved,* That testimony taken before a Committee sitting in the case of an accused member of an Annual Conference, is to be received as evidence on the trial of said minister before the Annual Conference, and that a rule for taking such testimony shall be provided. (*Journal, 1848, 126.*)

**A verdict is in the control of the Select Number that tries the case until it is formally presented to the Annual Conference.**

A complaint has been made that a sealed verdict in the case of —, a member of — Annual Conference, had been lodged with the secretary of the said Conference; that it had been returned by the said secretary to the chairman of the Select Number; and that this action was irregular and illegal.

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Your Committee is not in possession of full information as to the circumstances in this matter. That which it has is wholly *ex parte*, and it is, therefore, not able to pronounce any judicial opinion in the case. We are, nevertheless, of the opinion that until a verdict is formally presented to the Annual Conference it is in the control of the Select Number. (*Journal*, 1900, 456.)

**A Judge who has formerly acted as counsel in a case is incompetent to try that case.**

——, a member of the Methodist Episcopal Church on —— Circuit, —— District, —— Annual Conference, was tried before a Committee on a charge of “immoral conduct,” and was found guilty and expelled from the Church. The defendant appealed to the Quarterly Conference; the Quarterly Conference (——, presiding elder, in the chair) sustained the findings of the Committee. The defendant appealed from the rulings of the presiding elder to the Bishop presiding at the next session of the —— Annual Conference. The Bishop sustained the rulings. The defendant appealed from the decision of the Bishop to the General Conference in 1896. The General Conference reversed the decision of the

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Bishop and remanded the case to the Quarterly Conference for a new trial. A change of venue was granted. The case was transferred to another Conference for trial. The trial was had, the said —, presiding elder, in the chair. At this second trial the finding of the Committee was sustained, and the defendant, —, appealed from certain rulings therein to the Bishop who presided at the next session of the — Annual Conference. For our purposes, we need only dwell upon the fourth exception and in ruling thereon, which are as follows:

Exception 4. That the said Quarterly Conference, by having the said presiding elder as its presiding officer at the trial—he having once been attorney for the respondent and against the appellant in the case—was an illegal body for the trial of the said — under the laws of the Church.

The Bishop ruled that the plea of the appellant, that the said —, presiding elder, was incompetent to sit as president of said Quarterly Conference, by reason of having acted as counsel for the Church in the trial of the case in a previous hearing, was not well taken; for the reason that it does not appear that the said

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—— was ever employed as counsel for the Church in the case, or ever acted as counsel, or was ever present at the hearing of the case, when the said —— was tried and the record was made which was passed upon by the Quarterly Conference over which said —— presided. That the allegation that the said —— had acted as counsel in the case was not sustained; as the only sense in which the said —— acted as counsel for the Church was in regularly and lawfully defending his own rulings in the Quarterly Conference, upon the appeal taken therefrom to the Bishop presiding at the Annual Conference next ensuing; that such defense of his ruling was not in any wise the act or function of a counsel, but the regular act of a presiding elder; that it did not tend necessarily to bias the presiding elder's mind as to the rights of the appellant or the merits of the case; inasmuch as the hearing before the former Bishop did not involve the merits, but related solely to the legality of the rulings of the said —— as presiding elder in the Quarterly Conference.

From this ruling of the Bishop, —— appealed to this General Conference.

The Committee has given much consider-

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ation to this case because of the great importance involved.

The ruling of the Bishop affirms that ——, presiding elder, who presided at the first trial, before the Quarterly Conference, as a *judge*, and who upon appeal to the Bishop appeared as *counsel* and argued the case for the Church, and against ——, the defendant, was competent to sit as judge and presiding officer of the second Quarterly Conference, in the case when remanded for the trial.

To this proposition we are unable to give our assent. The records of the case show that, on September 29, 1892, before the Bishop, —— appeared and argued the case as counsel for the Church, and signed his name to the record “as attorney for the Church before the Bishop.” By the records, which alone we may consider, the said —— appears in the first trial of the defendant for the Quarterly Conference as presiding officer and judge; on the appeal to the Bishop he appears as attorney and counsel for the Church; then when the case was returned he again appears as presiding officer and judge at the second trial before the Quarterly Conference.



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It is an elementary principle of law and justice, prevailing in all civilized countries, that the judicial tribunal before which any person is tried shall be impartial, without leaning or bias. If the judge has made himself a party either to the prosecution or defense he is disqualified to sit. That one may act as judge first, next become an attorney or counsel in the same case for one of the parties, either on the side of mere law or on the side of facts merely, and then, when he is reversed in the law, may drop his robe as counsel and sit as judge in the same case again, is at war with all the traditions of our race, and would seem to be a mere travesty of justice. We most emphatically dissent from such a position, and conclude that the ruling was wrong, should be reversed, and the case remanded to the Quarterly Conference for a new trial. (*Journal, 1900, 458-460.*)

**An Annual Conference must confirm its sentence or correct its error.**

Moved, etc., to take up the appeal of ——. Carried.

Moved that the case of — be referred to the — Conference, either to confirm his ex-

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pulsion or correct the error in the last Minutes.  
Carried. (*Journal*, 1820, 238.)

**Documentary testimony need not be entered in a  
Conference Journal, but must be filed by the  
Secretary.**

“*Ques.* 5. Must all testimony taken before the Conference be spread on the journal, or may it be written down and kept in a form separate from the Journal?”

“*Answer.* Documentary testimony need not be spread upon the Journal, but should be filed and preserved by the Secretary.” (*Journal*, 1848, 129.)

**If witnesses will not testify in open Conference,  
the Conference may appoint a Commission to  
take their testimony, due notice being given  
the accused.**

“*Question* 4. If living witnesses are present at the seat of the Conference, but refuse to give evidence in open Conference, is the Conference at liberty in such a case to appoint a Committee to take such testimony in the presence of the accused out of the Conference; and, if so taken, must the testimony be written down by the Secretary of the Conference?”

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*“Answer.* The Conference has a right to appoint a Commission to take testimony when the witnesses can not be brought before the Conference, the opposite party being notified to appear before such Commission, and having the right to cross-examine the witnesses; in such case the testimony is to be taken by a secretary appointed by the Commission, and when reported to Conference it must be filed and carefully preserved by the secretary of that body.”  
(*Journal, 1848, 129.*)

**A Trial Committee may find accused guilty of less offense than that charged.**

Your Committee on Judiciary, having carefully reviewed the records in the appeal of Rev. ——— from the decisions of Bishop ———, in the case of Rev. ———, of the ——— and ——— Conference, respectfully report as follows:

In 1904, when the name of Rev. ——— was called, the Presiding Elder, Rev. ——— reported that charges had been preferred against Rev. ———, that a committee of investigation had been called, and that the charges were not established; neither was any specification under the charges sustained.

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The Conference passed the character of the accused.

There is evidence that the Presiding Elder who had presided at the preliminary trial, in reporting the verdict in this case, did not read these words, which were a part of the findings of the committee, namely: "But, while the investigating committee finds that ——— is not guilty of the charge preferred against him, nevertheless the committee regard him, according to the evidence, as being guilty of high imprudence and unministerial conduct."

We note that the accused had not been suspended, but the Conference session was near at hand.

At the session of the Conference in 1905, the appellant asked the presiding Bishop, ———, these questions:

"Had the committee authority to declare said Rev. ——— guilty of high imprudence and unministerial conduct?"

"Had the Presiding Elder authority to leave out of the verdict that part relating to high imprudence and unministerial conduct?"

The Bishop gave his decision in the following statement:

"1. When the committee of investigation

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found no specification, in their judgment, sustained by the testimony, the function and authority of that committee was ended.

"2. When the committee stated, in framing its report, that it regarded the accused as being guilty of high imprudence and unministerial conduct, such statement was extra-judicial, unauthorized by law, and no proper part of the verdict.

"3. When the Presiding Elder reported that the committee found that the charges were not sustained by the evidence, he reported all that the committee should have placed in their report consistent with their prerogative.

"4. When the Presiding Elder did not report all that the committee had framed as their report, he merely left out what never should have been put in.

"5. If the Conference, or any part of the Conference, wished the omitted portion stated and had then asked for it, doubtless the Presiding Elder would have been explicit, but the main issue would not thereby have been changed.

"6. As no specification was sustained, and as the next ensuing Annual Conference passed the character of the accused, my opinion is that the case should be considered closed."

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From this ruling ——— appealed. The Conference again passed the character of Rev. ——— and ordered all reference to the case expunged from the Conference Minutes.

In proceedings under Paragraph 222 of the Discipline, it is our opinion that when the evidence justifies it the committee may find the accused guilty of an offense less than that for which he is charged, as in Paragraph 231. The Presiding Elder erred in withholding a portion of the verdict of the committee in his report to the Annual Conference in the case of ———. However, since the records show: (1) That the members of the committee knew all the facts in the case; (2) that the record was accepted by the Conference without dissent; (3) that the character of ——— was passed and he was assigned to a charge; (4) that one year thereafter his character was again passed; (5) that the Conference instructed the secretary to expunge from the Conference journal all reference to an appeal on questions propounded to Bishop ———; (6) and that the purpose of the questions which were submitted to Bishop ——— was to reopen the case, and that the records clearly show that the Conference would not entertain a motion to reopen the case, we sustain

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the decision of Bishop ——— in that he decided the case closed. (*Journal, 1908.*)

### **A ruling must be a matter of record.**

In the matter of the complaint of Rev. ——— against Bishop ———, in the case of Rev. ———, it does not appear that any ruling complained of by the said ——— against Bishop ———, in the case of ——— of the ——— Annual Conference, is a matter of record, and it does not appear from the records in our possession that any appeal was taken from any ruling of the presiding officer of the said Conference.

Therefore we find no warrant for action on this complaint, and the appeal is hereby dismissed. (*Journal, 1908.*)

**An order of argument before a committee having been agreed to, failure to obtain benefit therefrom is no ground for appeal. A Select Committee may acquit on one charge, but convict on another.**

Your Committee on Judiciary, having carefully reviewed the records on appeal in the case of ———, member of the ——— Conference,

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charged with immoral conduct, report as follows, to-wit:

During the intervals between the sessions of the said Annual Conference four charges of immoral conduct were brought against the said ——— by the Rev. ———, under Section 1 of Paragraph No. 222 of the Discipline.

A committee of investigation was appointed, and, after a hearing, found the said ——— guilty of all the said charges and suspended him from all ministerial services and Church privileges until the next Annual Conference.

The Annual Conference met in ———, and appointed a Select Number to hear and determine the case.

The Select Number found that the said ——— was not guilty of immoral conduct under Section 1, Paragraph No. 222, but that he was guilty of high imprudence and unministerial conduct under Paragraph No. 231 of the Discipline, and the said ——— was suspended from his office for one year.

An appeal was taken from the decision of the Select Number to the Judicial Conference, ———, Bishop ——— presiding.

The Judicial Conference entertained the appeal. The appeal was heard and the Judicial



## TRIALS.

Conference confirmed the findings of the Select Number.

An appeal was taken by the said ——— from the decision of the Judicial Conference to this General Conference. The appellant claims that error has been committed in two particulars: First—That the accused was deprived of an opportunity to answer the arguments of the representatives of the Conference; and, Second—That he was declared guilty of high imprudence and unministerial conduct without any cause, the Select Number not having substantiated a single charge under Section 1, Paragraph No. 222.

Concerning the first alleged error, the said ——— claims that after reading the evidence, charges, and findings, the appellant and his counsel presented their argument to the Select Number of the Conference, and then the representatives of the Conference presented their arguments, and that thereafter the hearing was closed.

The said ——— admits that this order of argument was agreed upon by him, but claims that it so operated in its effect as to deprive him and his counsel of an opportunity to reply to the arguments of his opponent.

## GENERAL CONFERENCE DECISIONS.

Paragraph No. 268 of the Discipline prescribes the order of argument on appeals to Judicial Conferences, but is not, in express terms, made applicable to trials in Annual Conferences. By agreeing to the order of argument above mentioned, the appellant, in our opinion, has waived any and all right to claim error by reason thereof.

Concerning the second alleged error, the action of the Select Number of the Annual Conference in acquitting the said ——— on the charges of immoral conduct under Section 1, Paragraph No. 222, of the Discipline, and in convicting him of high imprudence and unministerial conduct under Paragraph No. 231 of the Discipline seems to be in accordance with the provisions of the last mentioned paragraph.

Your committee is, therefore, of the opinion that all the decisions of questions of law contained in the records and documents transmitted to this General Conference from the said Judicial Conference in this matter are free from serious error prejudicial to the appellant. (*Journal, 1908.*)

## TRIALS.

### **A witness in a case can not sit as judge in the case.**

Your Committee on Judiciary, having carefully reviewed the records on appeal in the case of A. B., appellant, vs. X. Y., et al., appellees, wherein A. B. was expelled from the First Methodist Episcopal Church of ——— on a charge of immoral conduct, respectfully report as follows:

The appellant brings this case before the General Conference on a specification of errors to the rulings of the presiding officer occurring at the trial, had before the Select Number of the ——— Conference. The appellant was a local preacher. The charge was immoral conduct; the specifications, (1) lying, (2) forgery. The evidence was taken before the required number of local preachers, acting as an investigating committee, Rev. ———, pastor in the Church, presiding.

At the trial before the Quarterly Conference, Dr. ———, Presiding Elder of the District, presided. Numerous errors are assigned, chief among which is the one that Dr. ——— appeared before the Investigating Committee as a witness and testified, and, as trial judge at the Quarterly Conference, he ruled upon the admissibility of his own testimony, admitting the

## GENERAL CONFERENCE DECISIONS.

same over the objection of the appellant, to which an exception was taken.

In the judgment of your committee, this was error. (See General Conference Journal, 1896, page 423.)

We recommend that the cause be reversed, and be remanded for a new trial. (*Journal*, 1908.)

## RULINGS OF THE BISHOPS.

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(See Journal, 1908, page ——)

The Rulings of the Bishops as submitted to the Committee on Judiciary by the secretary of the Board of Bishops and hereto appended, are approved, with the exception of the one numbered 42, which we find to be in error.

*To the Judiciary Committee:*

BRETHREN: The following are Rulings on matters connected with the administration of the Bishops, and approved by the Board of Bishops in its sessions during the quadrennium, and referred to in the Episcopal Address.

JOHN M. WALDEN, *Secretary.*

### **Validity of Certificate.**

1. May, 1906. A member of our Church who takes a certificate and unites with a Church of another denomination, thereby exhausts that certificate, hence can not re-enter our Church on that Certificate. (Discipline, ¶ 49, § 2.)

## GENERAL CONFERENCE DECISIONS.

### Christian Science Society.

2. May, 1906. A pastor is not at liberty to give a letter of dismissal to a member who announces the purpose to join a Christian Science Society.

### Boundary Commissions must meet.

3. May, 1906. It would not be legal for commissions appointed to determine the boundaries of Annual Conferences to reach a conclusion by correspondence and without a formal meeting.

### Admission of Probationers.

4. May, 1906. An Annual Conference may not admit into full membership a member on trial "left without appointment to attend one of our schools," even though the time thus spent be four years and the studies of the entire course be passed; Discipline, ¶ 175, expressly stating "that the time thus spent in school shall not count on that required for trial in the Annual Conference."

### Bishop in charge of a Conference.

5. May, 1906. When for any reason a Conference is turned over *ad interim* to another

## RULINGS OF BISHOPS.

Bishop, he has the entire administration thereof until a successor is appointed at the next Bishops' Conference. The Bishop who makes the appointments must have the right to superintend the work.

### **Locating a Preacher.**

6. May, 1906. The only law in the Discipline providing a method of locating a preacher without his consent is contained in ¶ 228.

### **Amenability of Deaconesses.**

7. May, 1906. Every deaconess is in the jurisdiction of the Annual Conference where she labors, even though she be a member of a Home within the bounds of another Conference. (Discipline, ¶ 209.)

### **Suspension may not be arrested.**

8. May, 1906. When a member of Conference whose case was referred to the Presiding Elder for investigation is suspended from the ministry by a duly appointed committee until the next session of the Annual Conference, a withdrawal thereafter of the charges by the complainant does not make it legal for the Presid-

## GENERAL CONFERENCE DECISIONS.

ing Elder to reopen the case. The suspension must hold until the Annual Conference convenes.

### **No second trial on same charges.**

9. May, 1906. A member of the Church who has been tried on charges which were not sustained, can not be tried a second time on the same charges.

### **Pastor as Sunday-school Superintendent.**

10. May, 1906. We are of opinion that there is no Disciplinary objection to the election of a pastor as Sunday-school superintendent.

### **Renomination of Sunday-school Superintendent.**

11. May, 1906. A person duly nominated by the Sunday-school Board as superintendent and refused confirmation by the Quarterly Conference, is eligible to nomination at any subsequent meeting of the Sunday-school Board, and to confirmation by the next Quarterly Conference thereafter.

### **Trine Baptism.**

12. May, 1906. There is no law in our Discipline on the subject of trine baptism; but



## RULINGS OF BISHOPS.

because of its association with high ritualistic practices, we advise that it be not practiced among us, especially where the form used is immersion.

### **Quarterly Conference relation of preacher in detached service.**

13. October, 1906. The Quarterly Conference relation of a preacher in detached service, such as chaplain, etc., may be changed, without his consent, only by the presiding Bishop of his Annual Conference. (Discipline, ¶ 173, § 4.)

### **Deaconess Work in a Mission.**

14. October, 1906. "The foregoing," in Discipline, ¶ 212, refers to the whole chapter, hence a mission may elect a Deaconess Board which will have the authority given in Discipline, ¶ 207, which authority should be recognized.

### **Trial necessary to location.**

15. October, 1906. After a Conference has, under ¶ 228 of the Discipline, requested one of its members to locate, whether he be present or absent at the next session he can only be located by a formal trial and conviction.

## GENERAL CONFERENCE DECISIONS.

### **Legality of judiciary proceedings.**

16. October, 1906. When an appeal has been taken to a Judicial Conference, it is for that Judicial Conference to pronounce upon the questions both of law and fact arising from the Minutes and documents coming to it from the Annual Conference.

### **Probationers not Conference Claimants.**

17. October, 1906. The Conference stewards are not authorized to grant help from the Conference Claimant Fund to preachers on trial, nor to the widows of preachers on trial.

### **Collections of Woman's Missionary Societies.**

18. October, 1906. Each pastor must decide for himself what are the regular services of the Church, referred to in Discipline, ¶ 375, § 4, and what are the meetings properly convened under § 5 of same paragraph.

### **The Professor Mitchell case.**

19. October, 1905. To a request for a copy of the complaints made to the Bishops against Professor H. G. Mitchell for use in an investigation ordered by his Annual Conference, the following answer was given:

## RULINGS OF BISHOPS

“The Board of Bishops has no information to give concerning the case, and under the limitations of their authority can not be participants, directly or indirectly, in any formal investigation ordered by an Annual Conference. There is no objection to the answer already returned by our secretary.”

### **Removal of class leader.**

20. October, 1906. There is no power lodged in the local Church to prevent the removal of a class leader by the pastor. (Discipline, ¶ 59.)

### **Relation of Bishop or Superintendent to Woman's Home Missionary Work.**

21. October, 1906. (1) Under the provisions of the Discipline there is no direct relation of the workers or the work of the Woman's Home Missionary Society to a mission, its superintendent, or presiding Bishop. The only restriction in the administration of such workers or work is that stated in Discipline, ¶ 375, § 1.

(2) The above is modified by the provision of the Discipline respecting deaconesses

## GENERAL CONFERENCE DECISIONS.

and deaconess work as specifically stated in the chapter relating to that subject, particularly ¶ 207.

### **Fraternity.**

22. May, 1906. At the Bishops' Conference, held in Evanston, Illinois, the following resolution from the Commission on Federation was presented:

*“Resolved, That where there are Churches of the two branches of Episcopal Methodism here represented, and recommendations shall have been made by joint committees from the Conference of the Methodist Episcopal Church and the Conference of the Methodist Episcopal Church, South, covering said territory, and a majority of the membership of each of said Churches shall have expressed a desire for union, such union may be consummated by the approval of the Bishop of the Methodist Episcopal Church and the Bishop of the Methodist Episcopal Church, South, having episcopal supervision of said Conferences.”*

This was referred to the Committee on General Reference, composed of seven Bishops, for consideration, which reported as follows:

“The foregoing matter having been pre-

## RULINGS OF BISHOPS.

sented to the Committee of General Reference, that Committee begs to recommend a favorable expression of opinion concerning the principle herein presented."

This report was received and adopted by the Board of Bishops.

### **Joint occupation of cities.**

23. May, 1907. We are, as ever, desirous of maintaining cordial relations with our brethren of the Methodist Episcopal Church, South, wherever our works intermingle, as well as elsewhere. In order to do this, we recommend:

First, that in smaller places, where both denominations are struggling to maintain themselves, and where one Methodist Church would be sufficient, effort should be made to reach an amicable arrangement by which one of the denominations shall retire.

Second, that in the larger places and cities, which we deem it necessary to enter, where the Church South is operating, we will seek to locate in sections not already provided for, and, so far as in us lies, work in Christian harmony with all who serve the Lord.

## GENERAL CONFERENCE DECISIONS.

### **Certificate in lieu of examination.**

24. May, 1907. It is the judgment of the Bishops that the phrase, "all Biblical and theological studies," which occurs in Appendix, ¶ 63, § 4, of the Discipline, includes Butler's "Analogy of Religion" and Fisher's "Grounds of Theistic and Christian Belief."

### **Re-examinations.**

25. May, 1907. It being the province of the Annual Conference to determine whether the examinations of undergraduates are satisfactory, it may authorize the re-examination of any who have failed to pass at a previous examination during the year.

### **Quarterly Conference on pastoral supply.**

26. May, 1907. The Bishops think that it is not desirable that the Quarterly Conference take formal action on the question of pastoral supply at the ensuing Annual Conference, but we know of nothing, either in the law or usage of the Church, which forbids a Presiding Elder to entertain a motion on this subject.

### **Bishop's consent to transfer.**

27. May, 1907. (1) We will call the attention of our Presiding Elders to the fact that

## RULINGS OF BISHOPS.

the employment, as a pastoral supply, of an effective member of an Annual Conference by the Presiding Elder of another Conference is absolutely illegal, and the Presiding Elder so offending is open to the charge of maladministration. Such an illegal supply can not exercise any pastoral functions, such as receiving or giving Church letters or presiding at any official meetings, and he remains amenable for desertion of his work to his own Conference, under the provisions of the Discipline, ¶¶ 162, 227.

(2) No Presiding Elder may excuse a pastor from the work to which he has been assigned by the Bishop, except by changing him to another charge, within the same district, under the provisions and limitations of ¶ 190, § 3, of the Discipline.

(3) The consent of the Bishops concerned, to a change of a pastor to work within another Conference, is *de facto* a transfer, and the certificate of transfer should be promptly issued.

(4) Until his own Conference, after due examination, has passed the character of the effective member who has left his work to serve

## GENERAL CONFERENCE DECISIONS.

as a supply within another Conference, the Bishops are not at liberty to transfer him.

(5) The consent of elders, in cases above mentioned, is not sufficient to justify a man's leaving the work to which he has been appointed. He must await information from his Bishop.

### **Joint agreement of Bishops.**

28. November, 1892. (1) In all cases, transfers will only be made by joint agreement of the Bishops having charge of both Conferences.

May, 1907. (2) We are not at liberty to transfer a preacher to any Conference without having first obtained the direct consent, either oral or written, of the Bishop having charge of the Conference to which the proposed transfer is to be made.

### **Separation of pastoral charges after being united.**

29. May, 1907. Where a Bishop has united two or more pastoral charges, the Bishop in charge has authority to separate, as he had authority to unite, the original constituents.



## RULINGS OF BISHOPS.

### Sunday-school Board.

30. May, 1907. (1) By the form for the organization of the Sunday-school Board, found in Appendix, ¶ 58 of the Discipline, the superintendent of the Sunday-school is authorized to call a special meeting of the Board.

(2) The pastor is *ex officio* chairman, and is to preside at all meetings of the Board at which he is present. If the pastor is absent, and no person has been appointed by him to preside, the Board may elect a temporary chairman.

(3) No teacher can be dismissed, except by a two-thirds vote of the Board. (Discipline, ¶ 347, § 4.)

(4) The Quarterly Conference has authority to supervise the Sunday-school, and to hear and adjudge complaints against its management and against the action of the Sunday-school Board, or any of its officers.

### Bishops' relation to Memorials.

31. May, 1907. We would advise that, except when changes of the Constitution are proposed in specific terms, it is not customary for the Bishops to present memorials adopted by

## GENERAL CONFERENCE DECISIONS.

one Conference for the consideration and action of other Conferences. We request the secretary of our Board to suggest to the secretary of any Conference taking such action that the memorial be transmitted directly to the secretaries of the other Conferences.

### **General Committee of Board of Education, etc.**

32. May, 1907. It is the opinion of the Bishops that no legal provision exists for a General Committee on "Education, Freedmen's Aid, and Sunday-schools," and that no meeting of a General Committee of this Board should be planned or held this year.

### **Ladies' Aid Societies.**

33. May, 1907. Only Ladies' Aid Societies, organized under ¶ 350 of the Discipline, are entitled to representation in the Quarterly Conference.

### **Eligibility of located preacher.**

34. November, 1907. In our judgment a member of an Annual Conference who has received a location relation is not eligible to election as a lay delegate to the General Conference

## RULINGS OF BISHOPS.

until he has been five years in this located relation; but the decision of this question is with the General Conference.

### **Bishops and examinations.**

35. November, 1907. The Bishops, as a body, have no jurisdiction over the action of an Annual Conference in the matter of examinations.

### **Effect of a transfer.**

36. November, 1907. When a preacher has been lawfully transferred from an Annual Conference before charges are preferred against him in that Conference, he is beyond its jurisdiction, and any judicial action taken by it in the case thereafter is null and void.

### **Parsonage property, trustees, etc.**

37. November, 1907. (1) The Discipline does not specifically provide for a separate Board of Trustees for parsonage property, but where on a circuit the different Churches have a property right in the parsonage, the intimations of the Discipline are that a distinct Board of Trustees should be constituted from the Trus-

## GENERAL CONFERENCE DECISIONS.

tees in the circuit in order that the rights of all the Churches which have contributed to the parsonage shall be conserved.

(2) The Trustees of parsonage property are members of the Quarterly Conference only by virtue of their being Trustees of the Church property.

### **Sale of parsonage property.**

38. November, 1907. A trust clause in a deed to property requiring it to be maintained as a parsonage for the use of Methodist preachers would be no Disciplinary bar to its sale and conveyance, provided that the proceeds of the sale shall be duly reinvested in parsonage property for the benefit of the same society.

### **Conveyance of parsonage property.**

39. November, 1907. Apart from special or corporate provisions, it is expedient that the regularly chosen Trustees of the Church property execute the conveyance of the parsonage property, or at least join in the transfer thereof, since the Discipline does not provide for separate Boards of Trustees for parsonage property.

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### **Jurisdiction of Joint Commission.**

40. November, 1907. A Joint Commission on Federation appointed by an Annual Conference has no jurisdiction within a Mission, or Mission Conference, although the territory be adjoining.

### **Vacancies in Book Committee.**

41. November, 1907. A person elected to fill a vacancy in a hold-over term in the Book Committee is elected to serve the remainder of the entire term.

### **President of Ladies' Aid Society.**

42. November, 1907. A person not a member of the Methodist Episcopal Church may be elected president of the Ladies' Aid Society and confirmed as such by the Quarterly Conference; but she can not be "approved by it for membership therein." (Discipline, ¶ 350, § 2.)

### **Moneys of Ladies' Aid Societies.**

43. November, 1907. A Ladies' Aid Society has no right, without the sanction of the Quarterly Conference, to withhold money received for the support of the Church.

## APPENDIX.

### ORGANIC LAW AS ADOPTED BY THE GENERAL CONFERENCE.

#### PREAMBLE.

IN order the better to preserve our historic heritage, and the more effectually to co-operate with other branches of the one Church of Jesus Christ, in advancing the kingdom of God among men, we, the ministers and laymen of the Methodist Episcopal Church, in accordance with the methods of constitutional legislation in force among us, hereby ordain, establish, and set forth as the fundamental law or Constitution of the Methodist Episcopal Church the Articles of Religion, the General Rules, and the Articles of Organization and Government, here following, to-wit:

#### DIVISION I.

##### Articles of Religion.

#### DIVISION II.

##### The General Rules.

#### DIVISION III.

##### Articles of Organization and Government.

#### PART I.

##### Pastoral Charges, Quarterly and Annual Conferences.

###### ARTICLE I.—*Pastoral Charges.*

Members of the Church shall be divided into local societies, one or more of which shall constitute a pastoral charge.

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### ARTICLE II.—*Quarterly Conferences.*

A Quarterly Conference shall be organized in each pastoral charge, and be composed of such persons and have such powers as the General Conference may direct.

### ARTICLE III.—*Annual Conferences.*

The traveling preachers shall be organized by the General Conference into Annual Conferences, the sessions of which they are required to attend.

## PART II.

### The General Conference.

#### ARTICLE I.—*How Composed.*

The General Conference shall be composed of ministerial and lay delegates, to be chosen as hereinafter provided.

#### ARTICLE II.—*Ministerial Delegates.*

§ 1. Each Annual Conference shall be entitled to at least one ministerial delegate. The General Conference shall not allow more than one ministerial delegate for every fourteen members of an Annual Conference, nor less than one for every forty-five; but for a fraction of two-thirds or more of the number fixed by the General Conference as the ratio of representation an Annual Conference shall be entitled to an additional delegate.

§ 2. The ministerial delegates shall be elected by ballot by the members of the Annual Conference, at its session immediately preceding the General

## APPENDIX.

Conference. Such delegates shall be elders, at least twenty-five years of age, and shall have been members of an Annual Conference four successive years, and at the time of their election and at the time of the session of the General Conference shall be members of the Annual Conference which elected them. An Annual Conference may elect reserve delegates, not exceeding three in number, and not exceeding the number of its delegates.

§ 3. No minister shall be counted twice in the same year in the basis for the election of delegates to the General Conference, nor vote in such election where he is not counted, nor vote in two Conferences in the same year on a constitutional question.

### ARTICLE III.—*Lay Delegates.*

§ 1. A Lay Electoral Conference shall be constituted quadrennially, or whenever duly called by the General Conference, within the bounds of each Annual Conference, for the purpose of electing lay delegates to the General Conference, and for the purpose of voting on constitutional changes. It shall be composed of lay members, one from each pastoral charge within its bounds, chosen by the lay members of the charge over twenty-one years of age, in such manner as the General Conference may determine. Each pastoral charge shall also elect in the same manner one reserve delegate. Members not less than twenty-one years of age, and holding membership in the pastoral charges electing them, are eligible to membership in the Lay Electoral Conference.

§ 2. The Lay Electoral Conference shall assemble at the seat of the Annual Conference on the



## ORGANIC LAW.

first Friday of the session immediately preceding the General Conference, unless the General Conference shall provide otherwise.

§ 3. The Lay Electoral Conference shall organize by electing a president and secretary, shall adopt its own rules of order, and shall be the judge of the election returns and qualifications of its own members.

§ 4. Each Lay Electoral Conference shall be entitled to elect as many delegates to the General Conference as there are ministerial delegates from the Annual Conference. A Lay Electoral Conference may elect reserve delegates, not exceeding three in number, and not exceeding the number of its delegates. These elections shall be by ballot.

§ 5. Lay members twenty-five years of age or over, holding membership in pastoral charges within the bounds of the Lay Electoral Conference, and having been lay members of the Church five years next preceding, shall be eligible to election to the General Conference. Delegates-elect who cease to be members of the Church within the bounds of the Lay Electoral Conference by which they were elected shall not be entitled to seats in the General Conference.

### ARTICLE IV.—*Credentials.*

The secretaries of the several Annual and Lay Electoral Conferences shall furnish certificates of election to the delegates severally, and send a certificate of such election to the secretary of the preceding General Conference immediately after the adjournment of said Annual or Lay Electoral Conference.

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### ARTICLE V.—*Sessions.*

§ 1. The General Conference shall meet at ten o'clock on the morning of the first Wednesday in the month of May, in every fourth year from the date of the first Delegated General Conference—namely, the year of our Lord 1812—and at such place in the United States of America as shall have been determined by the preceding General Conference, or by a Commission to be appointed quadrennially by the General Conference, and acting under its authority; which Commission shall have power also in case of emergency to change the place for the meeting of the General Conference, a majority of the General Superintendents concurring in such change.

§ 2. The General Superintendents, or a majority of them, by and with the advice of two-thirds of all the Annual Conferences, shall have the power to call an extra session of the General Conference at any time, constituted in the usual way; such session to be held at such time and place as a majority of the General Superintendents, and also of the above Commission, shall designate.

§ 3. In case of a great emergency two-thirds of the General Superintendents may call special sessions of the Annual Conferences, at such time and place as they may think wise, to determine the question of an extra session of the General Conference, or to elect delegates thereto. They may also, in such cases, call extra sessions of the Lay Electoral Conferences for the purpose of electing lay delegates to the General Conference.

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### ARTICLE VI.—*Presiding Officers.*

§ 1. The General Conference shall elect by ballot from among the traveling elders as many General Superintendents as it may deem necessary.

§ 2. The General Superintendents shall preside in the General Conference in such order as they may determine; but if no General Superintendent be present, the General Conference shall elect one of its members to preside *pro tempore*.

§ 3. The presiding officer of the General Conference shall decide questions of order, subject to an appeal to the General Conference; but questions of law shall be decided by the General Conference.

### ARTICLE VII.—*Organization.*

When the time for opening the General Conference arrives the presiding officer shall take the chair, and direct the secretary of the preceding General Conference, or in his absence one of his assistants, to call the roll of the delegates-elect. Those who have been duly returned shall be recognized as members, their certificates of election being *prima facie* evidence of their right to membership; *provided*, however, that in case of a challenge of any person thus enrolled, such challenge being signed by at least six delegates from the territory of as many different Annual Conferences, three such delegates being ministers, and three laymen, the person so challenged shall not participate in the proceedings of the General Conference, except to speak on his own case, until the question of his right shall have been decided. The General Conference shall be the judge of the election returns and qualifications of its own members.

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### ARTICLE VIII.—*Quorum.*

When the General Conference is in session it shall require the presence of two-thirds of the whole number of delegates to constitute a quorum for the transaction of business; but a less number may take a recess or adjourn from day to day in order to secure a quorum, and at the final session may approve the Journal, order the record of the roll-call, and adjourn *sine die*.

### ARTICLE IX.—*Voting.*

The ministerial and lay delegates shall deliberate together as one body. They shall also vote together as one body with the following exception: A separate vote shall be taken on any question when requested by one-third of either order of delegates present and voting. In all cases of separate voting it shall require the concurrence of the two orders to adopt the proposed measure; except that for changes of the Constitution a vote of two-thirds of the General Conference shall be sufficient, as provided in Article XI.

### ARTICLE X.—*Powers and Restrictions.*

The General Conference shall have full power to make rules and regulations for the Church under the following limitations and restrictions, namely:

§ 1. The General Conference shall not revoke, alter, nor change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine.

§ 2. The General Conference shall not organize

## ORGANIC LAW.

nor authorize the organization of an Annual Conference with less than twenty-five members.

§3. The General Conference shall not change nor alter any part or rule of our government so as to do away Episcopacy, nor destroy the plan of our itinerant General Superintendency; but may elect a Missionary Bishop or Superintendent for any of our foreign missions, limiting his Episcopal jurisdiction to the same respectively.

§ 4. The General Conference shall not revoke nor change the General Rules of our Church.

§ 5. The General Conference shall not deprive our ministers of the right of trial by the Annual Conference, or by a Select Number thereof, nor of an appeal; nor shall it deprive our members of the right of trial by a Committee of members of our Church, nor of an appeal.

§ 6. The General Conference shall not appropriate the produce of the Book Concern, nor of the Chartered Fund, to any purpose other than for the benefit of the traveling, supernumerary, and superannuated preachers, their wives, widows, and children.

### ARTICLE XI.—*Amendments.*

The concurrent recommendation of two-thirds of all the members of the several Annual Conferences present and voting, and of two-thirds of all the members of the Lay Electoral Conferences present and voting, shall suffice to authorize the next ensuing General Conference by a two-thirds vote to alter or amend any of the provisions of this Constitution excepting § 1, Article X; and also, whenever such alteration or amendment shall have been first recommended by the General Conference by a

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two-thirds vote, then so soon as two-thirds of all the members of the several Annual Conferences present and voting, and two-thirds of all the members of the Lay Electoral Conferences present and voting, shall have concurred therein, such alteration or amendment shall take effect; and the result of the vote shall be announced by the General Superintendents.

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PART II  
THIRD EDITION

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DECISIONS  
OF THE  
GENERAL CONFERENCES  
OF  
1912 and 1916



## CHAPTER I.

### APPEALS.

**Where there are no questions of Law there is no ground for Appeal.**

Your Committee on Judiciary, to which were referred the proceedings of the Judicial Conference, held at Pittsburgh, Pennsylvania, on January 27, 1910, to consider the appeal of ——— from the findings of the Ohio Annual Conference, at its session of 1910, having carefully considered the same, submits the following report:

That the records of the proceedings of the Judicial Conference in the case of said ——— do not disclose any rulings by the presiding Bishop on questions of law, and no errors are presented therein for review. The finding of the Judicial Conference in the case of the said ——— is therefore affirmed. (*Journal, 1912.*)

**No Question of Law, no Jurisdiction**

Your Committee on Judiciary, to which

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was referred the memorial of the chief officers of the Woman's Home Missionary Society, requesting the Committee on Judiciary to approve the rules and regulations made by the General Deaconess Board during the past quadrennium, having carefully considered the same, respectfully reports that no questions of law seem to be presented by the documents submitted upon which it can act at this time. (*Journal, 1912.*)

### **Court of Appeals not a Trial court.**

Your Committee on Judiciary, having carefully considered the documents submitted in the case of ———, of the Philadelphia Conference, reports as follows:

———, a member of the Philadelphia Conference, was tried before a Select Number of that Conference and the charges against him were sustained. On appeal to the Judicial Conference, held in the city of New York, October 23-26, 1911, the finding of the Select Number was reversed. The Church then appealed from the judgment of the Judicial Conference to the General Conference.

An examination of the record of the Judicial Conference discloses no errors of law. The Committee cannot review the finding of the



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Judicial Conference on the facts. The proceedings can be reviewed by us only on questions of law, and no questions of law are reserved in the record of the Judicial Conference. To the record of that tribunal this Committee must look for its determination of the case.

The judgment of the Judicial Conference must therefore be affirmed. (*Journal, 1912.*)

### **Without Record there is no Appeal.**

The complainant alleges that the following decision was rendered against him in the South American Annual Conference, to wit:

“We declare that ——— is guilty of insubordination and disobedience, also of an unworthy conduct for a minister of the Methodist Episcopal Church; and, of course, he deserves the penalty of expulsion from the ministry and from the communion of the Methodist Episcopal Church.”

Your Committee on Judiciary respectfully reports:

1. That said complaint apparently is intended as an appeal, but is subscribed only by the complainant and is not supported by other documentary evidence. Clearly, it is only the argument or brief of the complainant, and is in

## GENERAL CONFERENCE DECISIONS.

no sense a transcript of a record of any proceeding had before said Conference.

2. It is the opinion of the Committee that no question of law is presented for review and determination by said complaint, and that your Committee is without jurisdiction to act in the matter, and therefore returns the memorial containing said complaint with this report to the General Conference. (*Journal, 1912.*)

### **A Complaint is not an Appeal.**

Your Committee on Judiciary recommends for your adoption the following:

The complaint of ——— against the administration of Bishop ——— expressly admits that the complainant had allowed the time to expire within which he was permitted to appeal from the decisions of Bishop ——— of which he complains, and for that reason he puts his petition in the form of a complaint against the Bishop's administration of his office.

Rule 41 of Rules of Order, General Conference, 1916, expressly provides that the Judiciary Committee can only consider appeals, and such "other questions which may be referred to it by the General Conference." As

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this matter is not an appeal and has not been referred by the General Conference to the Judiciary Committee, it cannot be considered.

It also appears from the petition that the matters complained of are now being considered by the Courts of Massachusetts, on a proceeding initiated by the petitioner himself.

The complaint of ——— against the administration of Bishop ——— should be dismissed. (*Journal, 1916.*)

**Without record of appeal there is no jurisdiction.**

Your Committee on Judiciary to which were referred certain papers in the case of ———, Pittsburgh Conference, having carefully considered the same, respectfully reports:

1. That said case was heard and determined by the General Conference of 1892; was again presented and dismissed by the General Conference of 1900, on the grounds that the issues involved had already been determined; and is therefore, *res adjudicata*, so far as this General Conference may act.

2. The papers submitted to the Committee are not part of the papers in a case on appeal, and did not come before the Committee in the

## GENERAL CONFERENCE DECISIONS.

regular course of judicial procedure, and your Committee is without jurisdiction to act in the matter.

The above report was ordered printed in the Minutes of the Pittsburgh Annual Conference. (*Journal, 1912.*)

**Where there is not question of law, General Conference cannot annul decision.**

Your Committee on Judiciary, having carefully considered the petition of ——— and ———, counsel for the Genesee Annual Conference, in the case of said Conference against ———, praying for such relief as lies within the power of the General Conference, from the action of the Judicial Conference held in Albany, New York, in February, 1912, whereby the decision of the Select Number of the Genesee Annual Conference, held in Le Roy, New York, in October, 1911, was reversed and the said ——— was restored to membership in the said Conference, respectfully reports:

That as said petition presents no questions of law for review, the General Conference is without power to grant the relief prayed for. (*Journal, 1912.*)

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### **Findings of fact are not subject of appeal.**

Your Committee on Judiciary, having carefully considered the appeal of the Rev. ——— of the Erie Annual Conference, submits the following report:

———, of the Erie Annual Conference was suspended from the ministry by a Committee of Investigation, until the session of the next Annual Conference, on charge of grossly immoral conduct. On trial before a Select Number, the charges were sustained, and a judgment was pronounced that he be expelled from the ministry and membership of the Methodist Episcopal Church.

He appealed to the Judicial Conference, and on that appeal the finding of the Select Number was affirmed. By this further appeal he comes to the General Conference.

Though the case was ended in the Judicial Conference in March, 1909, at which time notice of appeal was given on the record, the secretary of that tribunal did not, at the close of the trial, transmit the records made and the papers submitted in the case, to the secretary of the General Conference, as the Discipline directs. Indeed, the records and papers were not here when this General Conference convened. On

## GENERAL CONFERENCE DECISIONS.

the appearance of the appellant, it was necessary to send for these documents, and they have only reached the Committee at the end of the session. Such delay in sending up records relating to an appeal cannot be justified and must be condemned.

The appellant complains of an erasure in the record of the Judicial Conference. There is an annotation by the secretary of the Judicial Conference that the matter erased was ordered stricken out. We must assume that this was done regularly in the Judicial Conference. The document is certified as the record of that tribunal, and has not been impeached as such. That record shows no exception by the appellant to the striking out of that which is erased. It must be assumed that he acquiesced therein. The fact does not appear that the striking out was done over his protest. In any event, the point relied on in that which was stricken out, is not tenable. It would not avail the appellant even if it could be considered. No prejudicial errors of law are disclosed by a careful examination and review of this delayed record. It is insisted that there was erroneous action by the Bishop presiding in the Judicial Conference. The Bishop was asked to rule on the propriety

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and admissibility of testimony considered before the Select Number. On an erroneous theory, as expressed in the record, the Bishop ruled that he had no Disciplinary power to review and rule on decisions of the trial officers of the Select Number. While the record says that the Bishop declined to rule on the question raised, yet in effect he did rule thereon. The record shows that he admitted the testimony in question. Thus he held that it had been properly admitted at the trial before the Select Number. This action was indeed an overruling of the exception that had been taken to this testimony on the trial below. That the Bishop gave a wrong explanation of his action in this matter cannot avail the appellant. If the action of the Bishop in admitting the testimony was proper, the appellant is not judicially harmed.

The testimony to which the exception pertained is competent and material in relation to the charges. That it is admissible testimony in the case is without doubt. So there is no prejudicial error in the consideration of this point by the Bishop presiding at the Judicial Conference.

No other questions of law are presented by the record. It is argued for the appellant that

## GENERAL CONFERENCE DECISIONS.

the evidence is not sufficient to sustain the charges. Two sets of triers of fact have held otherwise on competent and material testimony. The General Conference has no power, given by our Church law, to review a finding of fact resting on proper and weighty evidence.

The judgment pronounced by the Judicial Conference must therefore be affirmed. (*Journal*, 1912.)

### **Direct Appeal to the General Conference can only be on Questions of Law.**

Your Committee on Judiciary, having carefully considered the records on appeal in the case of ——— of the Genesee Annual Conference, respectfully reports:

The said ——— of the Genesee Annual Conference appeared before said Committee, assuming to appeal in his case from the rulings of the Bishops presiding over the 1909 and 1911 sessions of said Annual Conference.

The appellant filed no notice stating the grounds upon which any ruling is objected to, and the Committee is asked to hear the case upon the reports of the several Conference sessions informally brought to our attention by the appellant, and upon a purely *ex parte* pres-



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entation by him, no representation of the Conference appearing, and with no record that the Conference has had any notice of the presentation of any ruling for our consideration.

The appellant expressly disclaims an intention to appeal from the decision of the Bishop presiding at the Judicial Conference which finally passed upon his case, and assumes the right to be heard because of the provisions of ¶ 194, § 10, and ¶¶ 276 and 284. The situation is illustrative of the mischievously loose character of our appellate procedure, for the practice allows the presentation of an appeal during the hurry of General Conference work, without notice to the prevailing side, upon ancient rulings which the prosecution might have deemed to be acquiesced in.

Appellant was tried before a Select Number of his Annual Conference at its 1908 session, upon the charge of "unchristian and immoral conduct," the principal specification being that he had misappropriated a large sum of money belonging to the Western Methodist Book Concern, and that he had failed to keep repeated promises solemnly made to discharge the obligations growing out of such appropriation.

The trial resulted in the acquittal of the

## GENERAL CONFERENCE DECISIONS.

charge of "unchristian and immoral conduct"; but in a conviction of business irregularity, constituting high imprudence and unministerial conduct, according to ¶ 243 of the Discipline, disqualifying him for the office and work of a minister until this irregularity be rectified.

Although many objections are urged in this appeal to features of the proceedings of this trial, they are not considered, for the reason that a Judicial Conference in 1909 remanded the case for a new trial.

At the 1909 session of the Annual Conference, the decision of the Judicial Conference was presented, whereupon appellant interposed a demurrer in five counts, which was overruled by the Bishop. We will notice these counts and comment upon them categorically:

1. The first was that the charge of unministerial conduct is an offense which the Discipline does not recognize. We think that this is not well taken; first, because ¶ 243 provides in specific terms that punishment may be administered for "high imprudence and unministerial conduct"; and, second, because it seems clearly improvident, considering the somewhat incoherent way in which the judicial provisions of the Discipline are drafted, to insist upon

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technical terms and their narrow application, especially as we shall see further in this report that the Discipline (§§ 252-268) provides for punishment for conduct of which the defendant was charged, without attempting to give to such conduct a specific designation.

2. The second count is that there could be no trial on a charge of "unchristian conduct" until after the offender had been labored with. Reference here is had to § 260, which plainly does not apply to circumstances charged against appellant.

3. The third is that the complainants were not legally competent to bring and prosecute charges because they are not the persons with whom the accused had the business transaction out of which the alleged offense grew, and because they were not members of the Genesee Conference. These grounds cease to be of consequence, in view of the fact that the charges preferred by the Agents of the Western Methodist Book Concern were afterwards considered as but accusations preliminary to formal charges, which were drafted for the second trial.

4. The fourth count raised the question that the persons bringing the charges should not

## GENERAL CONFERENCE DECISIONS.

be heard because they had rejected an offer to arbitrate. This is not well taken: *first*, because the gist of the offense is one against the Western Methodist Book Concern, and not against the individuals who happened to be Publishing Agents thereof, and, consequently, is not such a disagreement between persons in business within the province of ¶ 263, as to be the subject of arbitration; *second*, ¶¶ 263 to 266 deal exclusively with business transactions in which moral turpitude is not involved. The specification being the "misappropriation of the funds of the Western Methodist Book Concern," under the circumstances there alleged, a situation is presented not susceptible to arbitration; although, of course, the amount to be paid might be so determined had not appellant settled that question by giving notes; *third*, the demurrer presents no record of an offer to arbitrate.

5. The fifth count is that the specifications related to financial transactions in which no fraud or dishonesty is alleged, wherefore under ¶ 235 there can be no actionable case. Comment already made suggests that this ground is not tenable.

The last count raises the question of *res adjudicata* on the theory that having been ac-

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quitted on the charge of "unchristian and unministerial conduct," under practically the same specifications, the accused could not be tried again. We must consider that the action of the Judicial Conference, at the insistence of the appellant himself, in the fact that it awarded him a new trial, had opened the case anew and left the charges as if they had never been tried. Following the practice of civil law under similar circumstances, we are clear that the case was before the Conference of 1909, as at the beginning.

The demurrer was overruled, and the only objection noted is that the Bishop's reasons were general and evasive. We are not concerned with the reasons given by the Bishop, but only with the effect of his ruling, and in our opinion the decision was right.

The case then took this course: A Special Committee of nine members of the Annual Conference was appointed to consider whether or not the charges should be entertained. No objections seem to have been made by the defendant to this disposition of the accusations of Jennings & Graham.

Subsequently the Special Committee reported that the charges should be considered,

## GENERAL CONFERENCE DECISIONS.

and recommended their redrafting, and it was ordered that this Committee perform that office. Then, again, the counsel for the accused raised the question whether a member, having been tried on a charge which was not sustained, could again be brought to trial on substantially the same charge and specification. This question the Bishop declined to answer, and his refusal is now urged as a prejudicial error, although no appeal was noted at the time. In our judgment the matter has been disposed of in considering the demurrer, and the silence of the Bishop could not have been prejudicial, for his answer, if given, should have been in the affirmative, considering that the issue was remanded for new trial.

A Select Number of fifteen was then chosen, and the defendant brought to trial on the reformulated charges, which were signed by two members of the Annual Conference. The specific charge was "persistent unchristian and unministerial conduct," and was supported by four specifications.

The judgment was "That ——— be suspended from his ministerial office until he has adjusted his business matters satisfactorily to the creditors concerned in the case, and given

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evidence of amendment sufficient to warrant his restoration by the Conference.”

Appeal was taken to a Judicial Conference held at Harrisburg in 1910, where the findings and judgment of the Select Number were sustained. No appeal is presented therefrom.

It is urged that the proceeding was an attempt to start a criminal action for the purpose of enforcing the collection of debt where there is no alleged purpose to defraud, and that such an action is contrary to the first principles of American jurisprudence. But ¶ 352 of the Discipline provides that when any minister indebted to the Book Concern neglects to make payment, or to come to a just settlement, he shall be dealt with in the same manner as in other cases of debt or disputed accounts, and ¶ 268 provides that any minister contracting debts which he is not able to pay, or who has behaved dishonestly, or has borrowed money without the probability of paying, may be brought to trial, and, if found guilty, expelled.

The office of minister in the Methodist Church is not a property right, but a high privilege, continuance in the enjoyment of which

## GENERAL CONFERENCE DECISIONS.

depends upon the maintenance of the character which the recipient was presumed to have when he was clothed with the office; and a charge which affects only his continuance in office, and which is based upon conduct incompatible with his exercise of ministerial functions, is not made in order to effect a punishment as the result of a criminal proceeding, but is an attempt to protect the office from the ministrations of an unworthy person.

It seems very clear, assuming the facts as they appear to be in the specifications, that the Publishing Agents of the Western Methodist Book Concern performed but a plain duty when they presented the matter to the defendant's Annual Conference, and while the sentence may savor of an attempt to collect a debt, that feature of it as a condition for restoration to the office is clearly a favor to the defendant.

We can notice but few of the large number of questions put to the Committee on Judiciary by the brief of appellant, because a great many of them represent questions not raised by him on the record, and others of them refer, as we stated above, to matters which happened on the first trial, which were clearly avoided in the second trial as prejudicial errors.



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On the second trial a majority of the Select Number were of the Special Committee; appointed to consider the charges and to draft them in proper form, and the question is now raised whether they were legally appointed to the court. The question does not affect this case, because no objection was offered by the defendant to those eight men serving as part of the Select Number; but we notice it to express our disapproval of the practice.

Some objection is raised in the briefs to the short notice of the amended charges given to the defendant, with the complaint that due notice thereof was not given him. We do not consider this question, for the reason that the record does not show that the defendant objected to the insufficiency of the notice when placed on trial.

It is objected to for the first time in the brief that the Select Number was presided over by Bishop Walden through the appointment of the Bishop presiding at the Annual Conference. No objection was made to this at the time, nor do we think that reading ¶ 201 and ¶ 243, § 3, of the Discipline together, this action of the presiding Bishop was erroneous. It does not appear that Bishop Walden took any part in the

## GENERAL CONFERENCE DECISIONS.

proceedings further than to act as presiding officer.

It is now first objected that the secretary of the Select Number was excluded from the room during the consideration of the verdict. This was proper, the secretary not being one of the Select Number.

It is urged that the verdict in the second trial did not declare the charges sustained. The record shows that the Select Number voted in the affirmative on the question, "Do the specifications as sustained sustain the charge?"; wherefore we pass this complaint.

It is vehemently urged that the Bishop presiding at the 1909 Conference erred in ruling that the coming in from the Judicial Conference of a demand for new trial left the Annual Conference no option but to enter into a new trial. The record is silent as to any issue to which such a ruling was addressed, and no appeal from or objection to it was noted. Before the question arose a Committee had been raised in the Annual Conference to consider whether the charges should be entertained, and there is no appearance on the record that appellant's case was prejudiced by this dictum at such a time.

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This case has been considered only in the light of the specifications. We have nothing to do with the facts which were finally passed upon by the General Conference. The rulings challenged are therefore necessarily interpreted by the character of the accusations. On the record made and saved we are unable to find any prejudicially erroneous rulings.

Only because of the uncertainty of our practice have the grounds of appeal urged in this case been considered at all. None of the questions appear on the record to have been presented to the Judicial Conference. It is the judgment of this Committee on Judiciary, for which we ask the approval of the General Conference, that a member of the Annual Conference when convicted after trial, and appealing to a Judicial Conference, should present to the latter all the objections, whether to the rulings of the President of the Annual Conference preliminary to the trial, or to features of the trial; and that his right to review in the General Conference, when appeal to a Judicial Conference is presented, is limited to such legal questions as may have been there raised for decision by the Bishop presiding and preserved in the record thereof. It is the opinion of this Com-

## GENERAL CONFERENCE DECISIONS.

mittee that only opinions of law on administrative matters, or decisions not available for appeal to a Judicial Conference, or those arising in cases not so appealed, may be reviewed on appeal directly to the General Conference under the provisions of ¶ 194, § 10.

Such a decision is that of the Bishop presiding at the 1911 session of the Genesee Annual Conference, which meets the challenge of its subject, ———, before the Committee on Judiciary. This decision was twofold; the first proposition being that an Annual Conference, under any circumstances, may not set aside or modify the findings of a Select Number. This is undoubtedly the law of the Church, and upon adherence to it depends the stability of all our legal procedure. The verdict of a Select Number and its judgment are findings of the Annual Conference itself on its judicial side, and when they have been presented, the Annual Conference ceases for all time to have judicial functions with reference to that particular case, and it may not, on its administrative side, vacate or modify such conclusions. It may, however, consider, in the course of administration, the effect of such judgment upon the status in the Annual Conference of the member affected; since the

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relation of a member is subject at all times to the control of his Conference.

The second proposition of the controverted ruling was to the effect that an action of the Annual Conference of 1910, which assumed to terminate the appellant's suspension, was illegal and void, because the terms of the sentence had not been attempted to be met; wherefore the effect of such action was to vacate the judgment. We must consider this decision with reference to the only record properly before us, that is, the Genesee Annual Conference Minutes of 1911. The ruling was an administrative one, coming to us only under the provision of ¶ 194, § 10. No memorial, notice of appeal, or resolution sent to us by action of the General Conference, brings any additional fact. We have had offered to us from both sides many matters seeming to bear more or less relation to the question, which we do not consider because so to do would require this Committee on Judiciary to resolve itself into a court of first instance, a function which the Committee does not possess. For us to go outside the record would be to add a dangerous precedent to a procedure already vague and without system. We feel bound, therefore, to indulge the presumption

## GENERAL CONFERENCE DECISIONS.

which attaches to a judicial determination, and to uphold this branch of the ruling for want of a record which we may properly consider to move us to do otherwise.

The question whether there may be rendered a judgment of suspension for more than a year, argued before the committee, does not arise in this case. Nowhere do we find that appellant has raised it, at least he offers no record to that effect, and it is open to query if this judgment, the operation of which, whether or not it shall extend over a year, is left to him, is obnoxious to this criticism; but we feel called to say that the sentence is of such a character as to clothe the Annual Conference with the power, in the way of administration, to determine when its terms have been met. Although one condition of the sentence is that appellant shall adjust "his business matters satisfactorily to the creditors concerned," we cannot hold that exactions of creditors which the debtor is unable fairly and reasonably to meet avail to continue the suspension.

The Annual Conference, as the judge of the status of its members, with power to determine the relation of everyone, rather than the creditors interested, is the tribunal to decide

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under the terms of the sentence, whether the suspension should terminate; which it may decide without vacating or modifying thereby the judgment. The terms call upon the defendant for the best performance reasonably possible under the circumstances, and when his Annual Conference decides that such a condition has been fairly met, its decision to reinstate, therefore, is not a vacation or a modification of the judgment, but a fulfillment thereof.

We recommend that the appeals of —— be overruled. (*Journal, 1912.*)

### **Failure to seek review of proceedings of a Judicial Conference is acquiescence in its findings.**

Your Committee on Judiciary recommends for your adoption the following:

At a Judicial Conference held at Memphis, Tennessee, October 7, 1913, at which were heard the appeals of ——, of Central Alabama Conference; ——, of Louisiana Conference; and ——, of Little Rock Conference. Each appeal was dismissed, and in each case the judgment of the Conference, expelling appellant from the ministry and the Church, was made absolute. The findings of the Judicial Conference in these several cases were

## GENERAL CONFERENCE DECISIONS.

reported by the secretary thereof to secretary of the General Conference in one document, acting under paragraph 286, Discipline, sending therewith the records of the several trials. No one seems, in either case, to be interested in asking your Committee to review the proceedings. We have, however, considered each record, and find nothing which suggests that, in any case, injustice was done.

We, therefore, determine that, in each case, the judgment of the Judicial Conference should be, and it is affirmed. (*Journal, 1916.*)

**An Annual Conference may place a member in the Supernumerary relation without his consent.**

Your Committee on Judiciary recommends for your adoption the following:

The material facts are as follows: By a vote of the Wilmington Conference, at its session in 1916, appellant was placed upon the list of supernumerary ministers, and as a consequence thereof was not given a regular appointment. He complains that he cannot be put upon that list without his consent, which was not given, and for that reason seeks to have the ac-



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tion of the Annual Conference reversed, and his name placed upon the effective list.

By paragraph 183 of the Discipline it is provided that "A Supernumerary Minister is one who, because of impaired health, or other equally sufficient reason, is temporarily unable to perform full work."

And by paragraph 79, section 23, it is provided that "The business of the Annual Conference is to inquire, etc.—Who are the Supernumerary Ministers, and for what number of years consecutively has each held this relation?"

Save as stated, the Discipline does not specifically state who is to determine whether or not the minister should be placed on the list of supernumeraries, but the Annual Conference has always exercised the power; and that is the safest place to lodge it for the minister's sake. If appellant's contentions were admitted, then a minister who was too ill mentally and physically to request that he be placed on that list, could never go there, although his case was exactly within the above-quoted definition of the Discipline. And probably few would make the request unless so old as to be superannuated. Hence, appellant's contention would almost wholly defeat the purpose of the Discipline in

## GENERAL CONFERENCE DECISIONS.

providing such a relation. The appeal should be dismissed. (*Journal, 1916.*)

**An Annual Conference may change a member's Conference relations without his consent.**

Your Committee on Judiciary, having carefully considered the appeal of ———, of the Montana Annual Conference, from the action of said Conference in changing his Conference relation as a member of said Conference from superannuated to supernumerary, reports as follows:

The minutes of the Montana Annual Conference, submitted for our consideration, disclose the following facts:

1. That, upon motion of the Board of Conference Relations, the said ——— was taken from the superannuated list and placed upon the supernumerary list.

2. A motion was later made to reconsider the action in the case of said ———, and the motion prevailed. After discussion, the former action was sustained, and he was changed from the superannuated to the supernumerary list.

So far as the minutes disclose, no rulings were made by the Bishop presiding, concerning the right of the Conference to change the rela-

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tion of the said ———, nor does it appear from the minutes that the Bishop was asked to make any ruling in the matter.

The said ——— appealed from the action of the Montana Annual Conference to the General Conference, specifying the following grounds in his notice of appeal:

1. That the Montana Annual Conference did not give him notice of its intention to change his Conference relation, and did it in his absence and without a hearing.

2. That a two-thirds vote of the Conference was necessary to disallow, directly or indirectly, any claim on Conference funds.

3. That a permanently disabled preacher, who is already a superannuate, is not eligible for the supernumerary relation.

The minutes of the Annual Conference do not contain any reference to the alleged facts stated in said notice of appeal, nor does it appear in said minutes that any exception was taken to the action of the Annual Conference on any of the grounds therein stated, or that any ruling was made by the presiding Bishop thereon.

It is within the power of the Annual Conference to change the relation of a member

## GENERAL CONFERENCE DECISIONS.

thereof from superannuate to supernumerary, and in so doing pass upon the facts relating thereto.

In the absence of any ruling by the presiding Bishop, and of any statement of facts except that contained in the notice of appeal, your Committee is of the opinion that the appeal of the said ——— should not be sustained. (*Journal, 1912.*)

**A Quarterly Conference has the right to change the place of worship, in an emergency.**

In the matter of the appeal of ———, your Committee on Judiciary would respectfully report:

That with the consent of both congregations the Grace Methodist Episcopal Church and the First Methodist Episcopal Church, respectively, owning properties at Third and Taylor Streets and Twelfth and Taylor Streets, Portland, Oregon, were consolidated into one corporation. On October 13, 1913, the Quarterly Conference approved a resolution of the Board of Trustees of the consolidated church in deciding that the chief services of the church should be held at Twelfth and Taylor Streets, and only "such

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services at Third and Taylor Streets as may be necessary in order to comply with the law." No one objected thereto at that time, but this appellant at the next Quarterly Conference, held three months later, requested the District Superintendent to compel the pastor to hold regular services at the Third and Taylor Street Church, because of a provision in the deed therefor that the property was purchased for the purpose of a church or parsonage, and because the pastor at the preceding Annual Conference was assigned to the church which then worshiped only at Third and Taylor Streets. The pastor and a number of the other members objected, and the District Superintendent ruled that as the Board of Trustees had decided that an emergency existed, they had the right, under paragraph 342 of the Discipline, to make the order they did. Appellant then appealed to the Bishop presiding at the next Annual Conference, and he sustained the decision of the District Superintendent, and from that decision the appeal is taken. At the same Annual Conference the assignment of a pastor was to the consolidated church, and not to the Third and Taylor Streets Church.

In the meantime this appellant and others

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began suit in the Courts of Oregon to have it decided that under the deed to the Third and Taylor Streets Church, the property could only be used for church purposes. The Supreme Court of Oregon decided against appellant and his associates, and held that the consolidated Church could use the property for such purposes as it deemed best, but refused to pass upon the question as to whether or not the property could be sold by the consolidated Church.

No evidence was produced before us to show whether or not an emergency did exist. In our opinion the appeal should be dismissed.

1st. Because the question has become solely a moot one. The appointment of a pastor for the Third and Taylor Streets Church, even if so made at the Annual Conference of 1913, ended with the next Annual Conference, and at and after that time no appointment was made for that Church specifically.

2d. We are alike without power or evidence to decide whether or not an emergency did exist at the time the Board of Trustees adopted its resolution, or at the time the Quarterly Conference, the Bishop, the District Superintendent, and the pastor approved it. Presumably they are right and appellant is wrong, and we

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have been given no authority or evidence to review their action.

What has been above said disposes also of the memorial of Miss ———, and others dealing with the same subject, which memorial, moreover, is not properly before us, because not referred to us by the General Conference. (*Journal, 1916.*)

**The right to Challenge exists when Committee of investigation is appointed, not before.**

On the matter of the appeal of ———, of the Holston Conference, from a ruling made by Bishop ———, while presiding over the said Conference, the facts appear to be as stated below:

A committee was appointed to investigate rumors which were in circulation respecting the character of ———, a member of the Conference. A question was raised as to whether ——— had the right of challenge in such case, and the Bishop ruled that he had. And this appeal was taken therefrom.

It is undoubtedly true that a person under investigation is expressly given a right of challenge under ¶ 303, § 3, of the Discipline, which provides that "in all cases of investigation or

## GENERAL CONFERENCE DECISIONS.

trial both parties shall have the right to challenge for cause." The question now raised is, however, whether this paragraph, 303, applies to this "committee of inquiry," which, in this case, was composed of five members. When the Committee of Inquiry made its report, it stated that "your committee appointed to *investigate* the rumors" had done so and that it had made diligent and thorough inquiry into the rumors, and reported that there were rumors of imprudent and unministerial conduct of sufficient prevalence and persistency to justify in all fairness to ——— and the Church, the bringing of a complaint. The Conference received the report and appointed a committee to formulate charges. The charges were formulated, and a committee of investigation was appointed. It was at this stage of the investigation that the right of challenge came into existence, and not before. The appeal should be dismissed.

There are other matters complained of as to the subsequent rulings by the Bishop in connection with the trial. As to such matters the Bishop had no notice as required under our law, and they cannot therefore now be considered.



## CHAPTER II.

### BISHOPS.

**A Bishop is "Absent" from a Conference when not within Bounds of the Conference.**

The Committee on Judiciary has been requested to interpret the phrase, "In the absence of a Bishop," as found in ¶ 179, §§ 2, 3, and 4. This paragraph defines the duties of a District Superintendent, and §§ 3 and 4 refer to duties which devolve upon him in the absence of a Bishop. § 4 reads, "To preside in the District Conference in the absence of a Bishop." It is our opinion that in this connection a Bishop is absent when he is not present at the session of the District Conference.

§§ 2 and 3 read as follows:

"§ 2. In the absence of a Bishop, to take charge of all the traveling ministers, local preachers, and exhorters in his district, as the Discipline directs."

"§ 3. To change the appointments of

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preachers in his district, if necessary, during the interval between the sessions of the Conference, in the absence of a Bishop."

In these sections the meaning of the language evidently is not as restricted as in § 4. By the literal meaning of the language used and by the analogy in civil matters the meaning seems to be clear. It is our opinion that the phrase, "In the absence of a Bishop," in §§ 2 and 3, means, "In case a Bishop is not personally present within the bounds of the Annual Conference." As the duties of a governor devolve upon the lieutenant-governor when the former is beyond the bounds of a State, so, according to these sections, certain duties of the General Superintendent devolve upon the District Superintendent when the former is beyond the bounds of the Annual Conference. (*Journal, 1912.*)

### **A Bishop is a member of an Annual Conference.**

The Committee on Judiciary was instructed by the General Conference to answer the following questions:

"Is Missionary Bishop Oldham a member of any Conference? If so, what Conference?"

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We answer that Bishop Oldham never absolutely lost his Annual Conference relationship, and is now a member of the Annual Conference to which he belonged when he was elected to the office of Missionary Bishop, and will continue in such membership unless he select, with the approbation of the Bishops, membership in some other Annual Conference.

Our reasons are the following:

1. Membership in an Annual Conference can be terminated only in four ways: (1) By location, (2) by surrender of ministerial office, (3) by withdrawal, and (4) by refusal to do the work assigned. (Discipline, ¶¶ 160-164.) As an election to the office of Bishop does not come within the provisions of any of these four ways, an election to such office does not terminate membership in an Annual Conference.

2. Having accepted an office incompatible with the office of Bishop, which acceptance *ipso facto* was a relinquishment of the office of Bishop, Bishop Oldham came under the purview of ¶ 159, which gives him the privilege of selecting membership in any Annual Conference, such selection to be approved by the Bishops.

3. While the election to the office of Bishop

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does not terminate membership in an Annual Conference, a Bishop, so long as he continue in office, is amenable to the General Conference, which amenability supersedes for the time being that of his amenability to the Annual Conference in which his membership resides.

During his incumbency of his office of Bishop he can exercise only such rights as are compatible with said office, and may not engage the rights of a member of an Annual Conference which are incompatible therewith. As to such matters, his connection with his Annual Conference is in suspension while occupying the episcopal office.

If Bishop Oldham ceased to be a member of an Annual Conference when he was elected to the episcopacy, then he ceased also to be a traveling preacher; for under the rule of the General Conference, made in 1872 (*Journal*, page 442) all members of the Church who are not members of the Annual Conferences are laymen. (*Journal*, 1912.)

### **Incompatible Offices Cannot be held.**

The Committee on Judiciary, having been requested by the General Conference to give an

## BISHOPS.

opinion on the questions stated below, reports as follows:

To the question, "Can a person hold the offices of Missionary Bishop and of Corresponding Secretary of the Board of Foreign Missions at the same time?" we answer that he cannot.

To the question, "If he elects to fill the office of Secretary of the Board of Foreign Missions, can he vacate the office of Missionary Bishop?" we answer that an acceptance of the office of Secretary of the Board of Foreign Missions would operate to vacate the office of Missionary Bishop.

To the question, "If he declines to vacate the office of Missionary Bishop, and elects to fill the office of Secretary of the Board of Foreign Missions, what action, if any, should be taken by the General Conference to vacate either office?" we answer that no action is necessary, as the acceptance of the one office at once vacates the other.

The principle of the common law is that the same person cannot at the same time hold two offices which are incompatible. The office of Secretary of the Board of Foreign Missions in the Methodist Episcopal Church is incompatible

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with that of a Missionary Bishop. (*Journal*, 1912.)

**Bishops have no authority to question the constitutionality of resolution in the General Conference.**

Your Committee on Judiciary, having been instructed by the General Conference to give an opinion on the following question, "What is the duty of a Bishop presiding in the General Conference when a report or resolution is presented which, in his judgment, involves a violation of the Constitution of the Church?" reports as follows:

It is the opinion of the Committee on Judiciary that it is the duty of a Bishop presiding in a General Conference to state and put all questions brought before the body which do not violate the Rules of Order. If they violate the Rules of Order, he may, on his own responsibility, so state, and from that decision an appeal lies to the body itself.

But a Bishop presiding in a General Conference cannot decide questions of law. The Discipline, paragraph 42, section 3, declares, "The presiding officer of the General Conference shall decide questions of order, subject to

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an appeal to the General Conference; but questions of law shall be decided by the General Conference."

In deciding whether a question is in order, the Bishop must necessarily decide according to principles of parliamentary law, notwithstanding the statement that "questions of law shall be decided by the General Conference." But in view of the provision in the Discipline that a Bishop presiding in a General Conference cannot decide questions of law, he cannot pass upon questions of constitutional law, neither can he construe enactments made by the General Conference.

The Committee is satisfied that such would be the rule, even in the absence of the express provision contained in the Discipline. It has been decided on numerous occasions in the House of Representatives that a Speaker cannot rule a resolution or proposed legislation out of order on the ground that it is in violation of the federal Constitution. From the days of John Quincy Adams to the present day, when a member of the House has made a point of order that a pending measure could not be considered on the ground that it was contrary to the Constitution, the Speaker has overruled the

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point on the theory that it was not the duty of the Chair to construe the Constitution as affecting any proposed legislation. An examination of Hind's Precedents shows this to be the ruling in Congress.

In reaching this conclusion the Committee is not unmindful of the opinion expressed by Bishop Merrill in his Digest of Methodist Law (Edition 1904, page 79), who is of the opinion that a Bishop, while presiding in a General Conference, would have the right to make objection that a pending measure was in violation of the Constitution of the Church. He cites, however, no authority, and the Committee finds itself unable to concur in his opinion.

A Bishop presiding in an Annual Conference or in a Judicial Conference is the law officer of the body, and as such decides all questions of law, subject to an appeal to the General Conference; but a Bishop presiding in the General Conference does not decide questions of law.

The Committee, therefore, answers the question proposed to it by saying that it is the duty of a Bishop presiding in a General Conference to refrain from passing upon the constitutionality of a report or resolution presented to the



## BISHOPS.

General Conference, even though, in his opinion, it violates the Constitution of the Church. Whether such report or resolution is constitutional or unconstitutional is not for the Bishop to decide. (*Journal, 1912.*)

## CHAPTER III.

### CONFERENCES.

The General Conference may call for a Lay Electoral Conference to elect delegates to a General Conference other than the prescribed Quadrennial General Conference.

Your Committee on Judiciary, in response to your resolution that it "be requested to inquire into . . . and to report as soon as may be practicable as to whether vacancies in delegations may be filled by the Annual and Lay Electoral Conferences, and to recommend such action as may be required to this end, if any is needed," which resolution was passed because of the fact that the representation in this Conference may be greatly diminished before the adjourned session thereof, if one be called by the Bishops, as heretofore provided; would respectfully report that by paragraph 39, section 1, of the Discipline it is provided that:

## CONFERENCES.

“A Lay Electoral Conference shall be constituted quadrennially, or whenever duly called by the General Conference, within the bounds of each Annual Conference, for the purpose of electing lay delegates to the General Conference.”

That provision clearly gives the right to the General Conference, by general or special law, to provide for the calling of a Lay Electoral Conference at other than the quadrennial periods to elect lay delegates to the General Conference.

Paragraph 38, section 2, of the Discipline provides that “The ministerial delegates shall be elected by ballot by members of the Annual Conference at its session immediately preceding the General Conference.” There is no provision in this paragraph for election of ministerial delegates at any other except where an extra session is called. See paragraph 4, section 3.

As there should be no doubt in anyone’s mind as to the validity of what is done at the adjourned session, should one be called, we advise the General Conference that it will be wise to take no action looking to the filling of any vacancies in delegations by the election of new

## GENERAL CONFERENCE DECISIONS.

members pending the life of this General Conference. (*Journal, 1916.*)

**The General Conference has full power to change field of a Missionary Bishop.**

The Committee on Judiciary, having been instructed to pass upon the question, "Whether it is within the power of the General Conference to take from, add to, or otherwise change the field under the supervision of a Missionary Bishop from that for which he was originally elected," reports as follows:

It is the opinion of the Committee on Judiciary that it is within the power of the General Conference so to do. There is nothing in the Restrictive Rules which in any way limits the power of the General Conference over this matter, provided that the territory so changed be in a foreign mission. (*Journal, 1912.*)

**A two-thirds vote of the General Conference means two thirds of the Quorum present and voting.**

Your Committee on Judiciary, having been requested by the General Conference to give an opinion on the question as to whether "the pas-

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sage of a constitutional question through the General Conference requires a vote of two thirds of the entire membership of the General Conference or a vote of two thirds of those present and voting," returns the following answer:

To amend the Constitution the amendment must obtain the approval "of two thirds of all the members of the several Annual Conferences 'present and voting,' " as well as "two thirds of all the members of the Lay Electorate Conferences present and voting." But it is provided that as respects the General Conference the amendment must have received a "two-thirds vote," omitting the words two thirds "of those present and voting." The change of phraseology certainly has significance, and the words used must be taken into consideration in arriving at the true meaning. When a Constitution or a statute requires an officer to be chosen or a question decided by a majority of the votes, this does not mean that the result shall be determined by a majority of those entitled to vote, but only that it is necessary to obtain a majority of those present and voting. All qualified voters who are absent, and those who are

## GENERAL CONFERENCE DECISIONS.

present, but who do not vote, are presumed to assent to the will of those who actually vote, unless the law otherwise declares. The same principle is applied to the requirement of a two-thirds vote. Any other rule would be productive of the greatest inconvenience, and ought not to be adopted unless a contrary intention is clearly expressed. And the question is whether the change in phraseology already referred to clearly expresses in this case that contrary intention. At first blush it seems to do so.

The Congress of the United States can submit for ratification to the several States an amendment to the Constitution provided it has been approved by "two thirds of both houses." The two houses of Congress have uniformly held in respect to the above provision that if at the time the vote is taken a quorum is present in the House as constituted, it suffices if two thirds of the quorum vote affirmatively, and that it is not necessary that two thirds of the entire membership should be recorded in its favor. The question arose in the first Congress when the first amendment to the Constitution was proposed. It received a vote of two thirds of the quorum, but not of two thirds of the entire membership. The ruling then made has

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been ever since uniformly adhered to. When it was challenged in the House of Representatives in May, 1898, when Mr. Reed was Speaker, he adhered to the previous rulings and said, "The question is one that has been so often decided that it seems hardly necessary to dwell upon it."

A similar interpretation is placed by State Legislatures upon like clauses in State Constitutions. So a similar construction has been given by the courts to like words in legislative acts.

The General Conference should follow these precedents unless there is controlling reason why that cannot be done. It may be argued that we cannot follow the rulings and decisions to which we have referred, because of the unusual and peculiar phraseology used in the Constitution of the Church to which attention has already been called. That language seems to indicate that while two thirds "of those present and voting" suffices in the case of Annual and Lay Electoral Conferences, it does not suffice in case of the General Conference, inasmuch as "present and voting" are not used in speaking of the vote of that body. We think the distinction would be conclusive of the question

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were it not for the facts to which we now direct attention.

The General Conference is what is known in law as a "definite" body and its quorum is fixed by the Constitution. In paragraph 44 it is provided that, "When the General Conference is in session it should require the presence of two thirds of the whole number of delegates to constitute a quorum for the transaction of business."

On the other hand, the Annual and Electoral Lay Conferences are "indefinite" bodies. The Constitution does not expressly declare what number shall constitute a quorum as respects either of them. Ordinarily, therefore, we should look to the common law rule to find out the number which constitutes the quorum. And the common law principle is that if any act is done by an indefinite body, it is valid if done by a majority of those present at the meeting if there are more than two present, no matter how small a proportion they may be of the whole number entitled to be present.

That the Annual Conference is an "indefinite" and not a "definite" body is undisputed. Bishop Neely in his article in the Methodist Review for March and April, 1916,



page 248, says that from the beginning of our history, as many of the ministers as came together to confer, constituted the quorum. He adds that this principle has ever since persisted in all our Conferences in American Methodism with the single exception of the General Conference. He was not discussing the question now submitted to this Committee, but we think that his statement shows that by a usage, which has been uniform and uninterrupted from the beginning of American Methodism, in all our Conferences, except the General Conference, those who met to do the business were entitled to do it whether a common law quorum was present or not. This being the case, we can clearly understand why paragraph 47 provides that the vote for the adoption of an amendment to the Constitution must receive a two-thirds vote in the Annual and Lay Electoral Conferences of those "present and voting," and why the words are omitted as respects the General Conference. In the one case those "present and voting" constitute the quorum no matter how few they may be. In the other case it is expressly enacted that there is no quorum unless two thirds of the whole body are present. With this explanation of the difference in the phraseology

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employed we see no reason why the General Conference should not follow the rule adopted by the Courts, State Legislatures, and Congress, and hold that the two-thirds vote of the General Conference, necessary to the adoption of an amendment to the Constitution, means two thirds of a quorum and not two thirds of the entire membership.

In the General Conference of 1912 the vote on the amendment proposed, authorizing the election of a Bishop or Bishops for work among particular Races and Languages was announced as 520 ayes and 45 nays, and therefore adopted by the General Conference. This statement was challenged by a member who declared it had not passed the Conference by a constitutional vote, as it had not received the two-thirds vote of the entire membership of the body. His statement was not contradicted by the Conference. It is, therefore, urged by some that the question cannot be contradicted now, and that his remark being unchallenged at the time settled the constitutional principle in accordance with his statement. It is surely unnecessary to say that constitutional principles cannot be settled anywhere in any such manner.

Importance has been attached by some to

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the fact that an entry in the General Conference Journal of 1856, page 154, records that the vote in favor of a constitutional change states that it was "adopted by a vote of more than two thirds of all the members" of the Conference. That may or may not indicate that in the opinion of the secretary who made the entry it required a two-thirds vote of all the members, but the question was never passed upon by the Judiciary Committee and the entry affords no judicial precedent.

The conclusion of the matter is that "the two-thirds vote" of a General Conference, required under paragraph 47 of the Discipline, means two thirds of the quorum present and voting, and not two thirds of the entire membership of the body. Much more instructive, although not conclusive, because never passed on judicially, was the action of the General Conference in 1844. In that Conference the following resolution was introduced and put on its passage: Resolved, "That it requires two thirds of all the members to alter or recommend any change in the Restrictive Rules." The entry in the Journal, page 228-229, states, "The resolution was lost—ayes, 50; noes, 90."

The above action in 1844 also serves to ex-

## GENERAL CONFERENCE DECISIONS.

plain why the entry of 1856 was made in the words the secretary employed. It was done to satisfy the minority who thought that two thirds of all the members was necessary. (*Journal*, 1916.)

### **Annual Conference has no power to Fix Numbers and Boundaries of Districts.**

Your Committee on Judiciary, to whom was referred the memorial of the Port Huron and Copper Country Preachers' Meeting of the Detroit Annual Conference, that the Annual Conferences be authorized to determine the number and boundaries of the districts, with the request that this Committee report on the constitutionality of this proposition, reports as follows:

The Third Restrictive Rule forbids the General Conference to destroy the plan of our itinerant General Superintendency. The authority to "fix the appointments" has always been interpreted as a part of the plan of our itinerant General Superintendency, and this includes the power to arrange the pastoral charges and the larger groups called districts. The Annual Conference has not the power under the Constitution to decide the number and the boundaries of the districts, nor has it the power

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to confer such authority by statute. (*Journal*, 1917.)

**For Central Conference purposes, Mission Conferences may be joined to a Central Mission Conference though under General Superintendents.**

Your Committee on Judiciary, to which was referred the following question presented by the Committee on Boundaries, to wit: "The Committee on Boundaries has before it requests to include in the China Central Mission Conference (Discipline, paragraph 89), the Malaysia and the Philippine Islands Conferences for Central Mission Conference purposes only. If this be admissible, these Conferences being within the jurisdiction of a Missionary Bishop, what relation will said Bishop have to the China Central Mission Conference which is within the jurisdiction of General Superintendents?" submits the following report:

1. There is no constitutional objection to including the Malaysia and Philippine Islands Conferences in the China Central Mission Conference for this purpose, though they are within the jurisdiction of General Superintendents.

2. If such action is desired, the General

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Conference should determine by suitable action, the authority of the Missionary Bishop in said China Central Mission Conference. (*Journal, 1912.*)

**Quarterly Conference has no control of finances of the Woman's Foreign Missionary Society.**

Your Committee on Judiciary, to which was referred the petition of the Chicago Northern District of the Northwestern Branch of the Woman's Foreign Missionary Society of the Methodist Episcopal Church, dated April 19, 1912, submits the following report:

In said petition an answer to the following question was asked, namely,

"Whether auxiliaries regularly organized under the Constitution and By-Laws of the Woman's Foreign Missionary Society are to be operated, conducted, and controlled according to the Constitution and By-Laws of the Woman's Foreign Missionary Society in the receipt and disbursement of their finances, wherein they conform to and do not in any wise conflict with the Discipline of the Methodist Episcopal Church; or whether the Official Board or Quarterly Conference of a local Methodist Episcopal Church in said Chicago Northern District has

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the right and privilege of supervision and control of the finances of the Woman's Foreign Missionary Society, duly organized and carrying on the regular missionary work in said Chicago Northern District."

In answer to said question, your Committee states that it is of the opinion that an auxiliary Society of the Woman's Foreign Missionary Society, regularly organized as suggested in said petition, has absolute control of the receipt, management, and disbursement of its finances; and that neither the Official Board nor Quarterly Conference has power to act in the premises.

The Constitution of the Church, under Division III, provides for its organization and government. Paragraph 46 of the Discipline (1908) gives the General Conference full power to make rules and regulations except in the cases specified in sections 4 to 6, inclusive (p. 43), none of which apply here.

Part VIII of the Discipline provides for the organization of "Institutions, Boards, and Societies," including the Woman's Foreign Missionary Society. Chapter III, of Part VIII, of the Discipline (pp. 245 to 246, inclusive) defines the work and authority of the Woman's

## GENERAL CONFERENCE DECISIONS.

Foreign Missionary Society, which is "to be governed and regulated by its Constitution." It is also required to work "in harmony with and under the supervision of the authorities of the Board of Foreign Missions," etc.

Paragraph 389 of the Discipline provides that, "The funds of the Society shall not be raised by collections or subscriptions taken during any of the regular Church services, nor in any Sunday school, but shall be raised by such methods as the Constitution of the Society shall provide," etc., clearly indicating that the work and finances of the auxiliaries of the Woman's Foreign Missionary Society shall be kept separate from the other financial interests of the Church.

If, without violating the plain provisions of paragraph 389 of the Discipline, an auxiliary society of the Woman's Foreign Missionary Society, of its own volition, desires to enter into any joint plan of the local Church for the distribution and management of its funds, which shall in no manner divert the same from their designed purpose, it has such right; but the auxiliary Society cannot be compelled so to do by the official board or Quarterly Conference of the local Church.



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**A Lay Conference has the right to propose Amendments to the Constitution.**

Your Committee on Judiciary, to which was referred the resolution instructing it to inquire into the question whether members of Lay Electoral Conferences have equal rights with members of Annual Conferences to propose amendments to the Constitution of the Church, and submit an opinion thereon, having carefully considered the same, reports as follows:

Article XI, of Chapter II, Division III, of the Constitution of the Church, better known as paragraph 47 of the Discipline (1908), prescribes two ways, and only two ways, in which said Constitution may be amended, namely,

1. The concurrent recommendation of two thirds of all the members of the several Annual Conferences, present and voting, and of two thirds of all the members of the Lay Electoral Conferences, present and voting, shall suffice to authorize the next ensuing General Conference by a two-thirds vote to alter or amend any of the provisions of the Constitution excepting Article X, section 1.

2. Whenever such alteration or amendment shall have been first recommended by a General Conference by a two-thirds vote, then so soon

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as two thirds of all the members of the several Annual Conferences present and voting and two thirds of all the members of the Lay Electoral Conferences present and voting shall have concurred therein, such alteration or amendment shall take effect.

Under the Constitution of the Church, the General Conference is composed of ministerial and lay delegates (paragraph 37), in equal numbers; (paragraph 39, section 4), whose duty it is to confer and deliberate together as one body except in cases specified in paragraph 45.

No powers are granted to ministerial delegates to the General Conference which are not also granted to lay delegates. All members of the General Conference, whether ministers or laymen, have an equal right to recommend alterations or amendments to the Constitution, and to secure the submission of the same to the Annual and Lay Electoral Conferences; and the right to recommend changes in the Constitution includes the right to propose and vote for such changes.

Traveling preachers are organized into Annual Conferences, whose sessions they are required to attend (paragraphs 36 and 74) and amendments to the Constitution may be pro-

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posed and voted upon by the members thereof at any session.

Paragraph 39, section 1, provides that, "A Lay Electoral Conference shall be constituted within the bounds of each Annual Conference quadrennially, or whenever duly called by a General Conference, for the purpose of electing lay delegates to the General Conference, and for the purpose of voting on constitutional changes."

Paragraph 39, section 2, further provides that, "The Lay Electoral Conference shall assemble at the seat of the Annual Conference on the first Friday of the session immediately preceding the General Conference, unless the General Conference shall provide otherwise."

Construing all paragraphs of the Discipline above stated, your Committee is of the opinion that members of Annual and Lay Electoral Conferences have equal rights to recommend changes in the Constitution of the Church; and that the right to recommend such changes includes the right to propose as well as to vote for the same.

It should be noted, however, that while members of Annual Conferences have the opportunity to recommend changes in the Consti-

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tution at their sessions each year, members of Lay Electoral Conferences only have such opportunity on one day in four years, and at a time which practically precludes them from originating amendments to the Constitution, if such amendments must be submitted to the General Conference next ensuing after the quadrennial meeting. For no amendment to the Constitution can be adopted without the concurrent recommendation of two thirds of all the members of the several Annual Conferences present and voting and two thirds of the members of the Lay Electoral Conferences present and voting; and this necessarily delays the submission of constitutional questions to the General Conference until after two thirds of all the members of the Lay Electoral Conferences present and voting have had such opportunity, as well as two thirds of all the members of the Annual Conferences present and voting.

Your Committee is therefore of the opinion that the General Conference next ensuing after the concurrent recommendations of two thirds of all the members of the several Annual Conferences and Lay Electoral Conferences are submitted to it, is authorized to alter or amend the provisions of the Constitution; and that this

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authority is not limited to the General Conference next ensuing after the quadrennial meeting of the Lay Electoral Conferences, otherwise the members of the Lay Electoral Conferences would not have an equal opportunity with members of the Annual Conferences to originate such amendments. (*Journal, 1912.*)

## CHAPTER IV.

### CONFERENCE CLAIMANTS.

**Widow of Traveling Preacher marrying again forfeits claims on Conference Claimants' Fund.**

Your Committee on Judiciary recommends for your adoption the following:

The Conference having referred to the Judiciary Committee the inquiries of ———, of the Colorado Conference, the following report thereon is submitted:

1. To the question whether the annuity claim of the widow of a traveling preacher becomes extinct upon her marrying another traveling preacher of our Church, or whether under such circumstances it becomes merely dormant, to revive upon her again becoming a widow, the following answer is returned:

Paragraph 323, subdivision 2, provides that the widows of deceased ministers are Conference claimants "during their widowhood," and while they remain members of the Methodist Episcopal Church. It is, therefore, our opinion that upon the marriage of a widow of a de-

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ceased minister she ceases to have any right as the widow of her first husband to be regarded as a Conference claimant; and if she survives her second husband, her right as the widow of her first husband does not revive, having been extinguished upon her second marriage, and if her second husband was also a traveling preacher of our Church, she would be again entitled to be a Conference claimant as the widow of her second husband, but not otherwise. (*Journal, 1916.*)

### **Expulsion from the Ministry is a forfeiture of the rights of the Ministry.**

Your Committee on Judiciary having carefully considered the memorial of ——— and others of the Des Moines Conference asking for the judgment of this Conference on the rights of ——— as a Conference claimant.

At the Des Moines Annual Conference session of 1897 ——— was accused, tried, and convicted of offenses involving his moral character. He was expelled from the ministry and from the Church. He afterward obtained a divorce from his wife, ———, and married again. The decision asked is whether or not ———, the divorced wife, is legally a Confer-

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ence claimant, she having served with her husband twenty-two years in the regular itinerancy of the Church, maintaining a personal Christian character that has never been questioned.

Under paragraph 323 of the Discipline of 1912, a Methodist Episcopal preacher has a right to comfortable support, and on his death that right passes to the dependent members of his family. By the next paragraph of the Discipline, retired ministers and the widows of deceased ministers are made Conference claimants. ——— is not the widow of a deceased minister. After ——— was expelled from the ministry and from the Church, he could not become a legal Conference claimant, and for the same reason his widow, on his decease, cannot become one. At the time the divorce was granted ——— was not a Methodist Episcopal minister or a member of the Methodist Episcopal Church. For these reasons your committee is of the opinion that ——— is not a legal Conference claimant. (*Journal, 1916.*)

**Local preachers may be beneficiaries of relief by Annual Conferences but not from Conference Claimants' Funds.**

The General Conference of 1912, as shown



## CONFERENCE CLAIMANTS.

on page 626 of the Journal, adopted the following:

"An Annual Conference, by a two-thirds vote of those present and voting, may accept as a Conference claimant a local preacher who has served as a supply pastor within its bounds for fifteen consecutive years: Provided that any appropriation for such claimant shall be taken from the funds collected by and for said Conference; and also that the widow of such claimant may likewise be aided from the same fund."

To the question as to the legality of the foregoing, the following answer is returned:

Paragraph 323, section 2, of the Discipline, 1912, defines Conference claimants as being "retired ministers, the widows of deceased ministers (during their widowhood, and while they remain members of the Methodist Episcopal Church), and their children under sixteen years of age." A local preacher employed as a supply pastor is not a retired minister, and therefore cannot, under any conditions, be accepted as a Conference claimant within the meaning of that term as used in the Discipline.

To the question as to what funds, if any, an Annual Conference can use to aid local preachers in their old age, the following answer

## GENERAL CONFERENCE DECISIONS.

is returned: Dividends derived from the Board of Conference Claimants, from Annual Conference invested funds, from Preachers' Aid Societies, from organizations and funds of similar character, from the Book Concern, from the Chartered Fund, and from the regular gifts of the Churches for the ministerial support of Conference claimants, are all sacredly guarded, both by the Sixth Restrictive Rule and by the several provisions of the Discipline touching on this matter, for the benefit of those regular Conference claimants whose status is fixed in paragraph 323, section 2. Moneys derived from any of these sources cannot be appropriated to the relief of local preachers who have served as supply pastors.

The question then arises: May an Annual Conference make provision for the relief of local preachers who have given long and faithful service as supply pastors? To this we reply that such provision, in our judgment, would be entirely proper, if an Annual Conference wishes so to do, but such aid must be from funds other than those raised for Conference claimants, and from funds which must have been raised specifically for the aid of persons other than Conference claimants. (*Journal, 1916.*)

## CONFERENCE CLAIMANTS.

### **Time of Payment of Conference Claimants' Money discretionary.**

1. To the question whether upon promotion to the retired relation the minister thus retired has a legal right to demand his year's annuity in advance, the following answer is returned:

The Discipline is silent as to the time of payment to retired ministers. In the absence of any legislation on the subject by the General Conference we think the Board of Conference Claimants has the right to determine at what times the payment shall be made out of the income of the connectional Permanent Fund. And that out of the Fund which an Annual Conference holds in its own right and which has not been derived from the Board of Conference Claimants payment shall be made at such times as the Annual Conference may determine. If moneys have been received from the Board of Conference Claimants and if that Board has not determined the times of payment, then the Annual Conference may itself determine, as to the moneys so received, the times of payment. We do not understand that a retired minister has the legal right to demand the payment of his year's annuity all in advance.

## GENERAL CONFERENCE DECISIONS.

2. To this question whether it involves a hardship upon the annuity if a Conference claimant is paid his annuity in advance, the following answer is returned: The question asked is not judicial. If the propounder of the question thinks it does involve hardship, he should seek legislation upon the subject, to remedy the wrong done.

3. To the question, "Is not liberality thereby exercised by the Church?" the following answer is returned: The question is not judicial, and the Committee does not feel authorized to make other answer. (*Journal, 1916.*)

## CHAPTER V.

### ELECTIONS.

Certificate of Election must be issued by the Quarterly Conference to the party who on the face of the returns signed by the proper officials has plurality of votes cast.

Your Committee on Judiciary recommends for your adoption the following:

The appeal of ———, a member of the Michigan Annual Conference, is from the action of that Conference in declining to act upon a complaint submitted to it, alleging that there had been errors of administration in connection with the action of the Quarterly Conference of the First Methodist Episcopal Church of Grand Rapids.

It appears that an election was held by the members of the church in the manner prescribed in the Discipline for the election of lay and reserve delegates. The Election Board took charge of the election, received and counted the ballots, and certified the whole number of

## GENERAL CONFERENCE DECISIONS.

votes cast and for whom cast to the Quarterly Conference.

The certificate which the District Superintendent, who presided in the Quarterly Conference, has submitted to the Judiciary Committee, and upon which he certified he and the Quarterly Conference acted, states that the "total number of votes cast for lay delegates, forty-nine, of which number W. S. Graham received twenty; Mr. George T. Whitworth, nineteen; James Graham, two; C. P. Foote, two; E. R. Thompson, two; Elvin Swarthout, two; Harley Bertsch and Mr. Pollock, one each. Total number of votes cast for reserve lay delegate, forty, of which number Mr. Elvin Swarthout received thirteen; C. P. Foote, nine; E. R. Thompson, six; Dr. Duncan, three; Mrs. Paxton, Judge McDonald and W. S. Graham, two each; L. L. Skillman, L. T. Wilmarth and Mrs. Vanboer, one each."

The Discipline, paragraph 91, section 2, makes it the duty of the Quarterly Conference, "To declare the result and give to the person receiving the highest number of votes for each place a certificate of election, which shall be signed by the District Superintendent, and the secretary of the Quarterly Conference." But

## ELECTIONS.

instead of issuing the certificate to Mr. Graham, according to the report as certified by the Election Board, a motion was made that the Quarterly Conference decline to receive and consider the report. The District Superintendent entertained and put that motion, and it was adopted. He then solicited and entertained and put a motion that the Quarterly Conference proceed to take a ballot to elect a delegate to the Lay Electoral Conference, limiting the ballots to the two who received the highest number of votes, at the Church election as certified by the Election Board. This motion was adopted. Twenty-four votes were cast, and George B. Whitworth received eighteen; William S. Graham, three, and three blank votes were cast. Thereupon George B. Whitworth was declared elected the lay delegate. There is no authority whatever in the Discipline which authorizes a Quarterly Conference to elect by a vote of its own members, under any circumstances, a delegate to the Lay General Electoral Conference.

There is no authority known under which a Quarterly Conference authorized to "declare the result" and give the certificate of election to the person receiving the highest number of votes of the church members can set aside the

## GENERAL CONFERENCE DECISIONS.

vote as certified to by the officers of the Election Board and thereupon proceed to elect a delegate to the Lay Electoral Conference by vote of the Quarterly Conference itself. The action of the Quarterly Conference was in that respect wholly unwarranted and clearly unlawful.

Upon the certificate which the District Superintendent says was the one upon which he ruled and the Quarterly Conference acted, William S. Graham was elected, having received the highest vote cast, and he should have been declared elected and been given his certificate of election.

A Quarterly Conference is clothed by the Discipline with the quasi-judicial power of determining whether the certificate transmitted to it is or is not signed by the proper officers of the Election Board. If it is so signed, the certificate of election must be issued to the party who appears on the face of the transmitted certificate to have received the plurality of the votes cast. The Quarterly Conference powers are ministerial in respect to this matter. It has no more power to go behind the official returns made to it than a county or a State Canvassing Board in a popular election has to go behind the official returns made to it. The law is well



## ELECTIONS.

established that Canvassing Boards possess no such power. In case the official returns do not truly certify the vote as actually cast, the remedy is for the aggrieved party to contest the election, before a tribunal authorized to act in respect thereto. The certificate issued by a Quarterly Conference is only *prima facie* evidence that the one to whom it is issued is entitled to sit in the Lay Electoral Conference. That body, but not the Quarterly Conference, may go behind the certificate, inquire into the facts, and award the seat to the contestant if it finds him entitled thereto.

Paragraph 39 of the Discipline, subdivision 3, provides that "the Lay Electoral Conference shall be the judge of the election returns and qualifications of its own members."

Mr. Graham unquestionably had the right to submit the facts to the Lay Electoral Conference, which had full power to investigate the matter. That Conference might have properly disregarded the certificate issued by the Quarterly Conference and should have seated Mr. Graham if satisfied that he actually received a plurality of the votes cast at the church election. Under the ruling made by the last General Conference a plurality of the votes cast is

## GENERAL CONFERENCE DECISIONS.

sufficient for an election, in the absence of proof that a contrary rule governing the election has been established.

It does not appear in the paper submitted what the reasons were which influenced the Quarterly Conference to disregard the Election Board's certificate. And it is immaterial what their reasons may have been. The Quarterly Conference committed two errors:

1. In going behind and disregarding the official certificate of the Election Board.
2. In proceeding itself to elect by a vote of its own members the lay delegate.

### **A Majority of all votes cast is not necessary to election of Delegates.**

The Committee on Judiciary, having been instructed by the General Conference to give an opinion on the question whether a majority vote of Annual and Lay Electoral Conferences is necessary to the election of reserve delegates to the General Conference, reports as follows:

The provision governing the election of ministerial delegates, including reserve delegates, is contained in paragraph 38 of the Discipline, and the provision governing the election of lay delegates, including reserve delegates, is

## ELECTIONS.

found in paragraph 39. It is expressly provided that the elections shall be by ballot, but it is not provided in express terms that either the delegates or the reserve delegates must obtain a majority of the votes cast.

The question propounded should therefore be answered according to the principles of the common law. There can be no doubt what the rule is in cases of this nature. In all elections the person who receives the highest number of votes cast is elected, unless the law under which the election is held expressly requires that a majority of all votes cast must be obtained.

The Committee, therefore, answers the question propounded, in the negative, and declares that it is not necessary to the election either of delegates or reserve delegates that they should obtain a majority of all the votes cast. (*Journal, 1912.*)

**Absentees from Annual Conference at time and place when vote is taken on constitutional question cannot vote.**

Your Committee on Judiciary recommends for your adoption the following:

The Committee having been requested by the General Conference to give an opinion

## GENERAL CONFERENCE DECISIONS.

whether the phrase, "absentees in the session of an Annual Conference," means an absentee at the time the vote for delegate is taken, as set forth in the Journal, 1896, page 274, and published in the Appendix to the Discipline, 1912, page 502, as follows: "Absentees from the session of an Annual Conference may not vote in the election of delegates to the General Conference, nor upon proposed amendments to the Constitution," reports as follows: "No member of an Annual Conference may vote in the election of delegates to the General Conference, nor upon proposed amendments to the Constitution who is not present at the time and place the vote is taken."

The Committee recommends that this decision be printed in the Discipline. (*Journal*; 1916.)

## CHAPTER VI.

### FORFEITURES.

#### **Disobedience of mandate of General Conference forfeits Church rights.**

Your Committee on Judiciary have carefully considered a memorial from the members and the pastor of the Marie Methodist Episcopal Church of Chicago, which was referred to us by the General Conference on May 11, 1912.

The memorial relates to the failure of Trinity Methodist Episcopal Church of Chicago to obey the order made by the General Conference which met in Baltimore in 1908, and which Conference considered the claim made by Marie Church that it was entitled to have conveyed to it the property which for many years it had occupied as a place of worship, but from the possession of which it had been excluded for a number of years by the action of Trinity Church, which held the legal title to the property.

The Committee on Judiciary reported in 1908 in favor of the claim made by Marie

## GENERAL CONFERENCE DECISIONS.

Church, saying: "Trinity Church should right the wrong by restoring the property to the possession of Marie Church and by executing all papers necessary to perfect its title beyond controversy in the future, and it is so ordered." This report was adopted. (See Journal, 1908, pp. 426 and 462.)

The memorial presented to the Conference and referred to as aforesaid states that Trinity Church has not complied with the order made by the General Conference in 1908. The language of the memorial is: "Trinity Church, however, through her trustees, continues to repudiate all our rights and to rebel against and defy the General Conference, and demands that we, as a Church, shall dissolve, and shall surrender our affidavit of organization as a corporation, and request the Bishop to dissolve our Quarterly Conference.

"We have been greatly embarrassed in trying to do our work, since the action of the General Conference of 1908, by Trinity's attitude and the cost and burdens of litigation, as well as by the natural difficulties of our mission field. Our only hope now lies in some action by your body harmonious with that of the Baltimore Conference, which may lead Trinity to

## FORFEITURES.

surrender to us, as it should do, what was not only intended from the first to be our church home and our property, but a means of subsistence from the rentals of the stores in the property; as our work requires means far beyond what can be raised on the field in the ordinary way.

“Because of these things we come again to you and memorialize you, in order that we may be relieved, and that the authority of the Methodist Episcopal Church may not be held in contempt and her property in general may not be diverted from the uses originally designed, or be put in jeopardy, and that order and discipline shall be maintained in the Church; and that the loyal and useful Marie Methodist Episcopal Church shall not be lost to Methodism.”

The material facts, as disclosed by the records and papers presented, are substantially as follows:

1. That in 1883 Trinity Church organized a mission, which afterward developed into the Marie Church.

2. That in 1884 Mr. Harlow N. Higinbotham, acting as one of the trustees of Trinity Church, undertook, along with the other trustees

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of Trinity Church, to obtain aid for said mission in order to furnish it with a suitable place for public worship. Large sums of money were donated for the accomplishment of this purpose, and upon the understanding that the real estate in controversy, the legal title to which had been taken in the name of Harlow N. Higinbotham by a deed of conveyance, dated February 23, 1884, would be devoted to the same purpose.

3. That in April, 1884, Mr. Higinbotham and members of Trinity Church applied to the First Methodist Episcopal Church of Chicago for aid for the mission, and represented that the real estate now in controversy would be given for the use of said mission.

4. That the trustees of the First Church, having considered the matter, adopted the following resolution on April 25, 1884, namely,

*Resolved*, That the treasurer of this corporation be, and is hereby ordered to pay toward the construction of the Wentworth Avenue and Bushnell Street Mission building [now Marie Church] under the patronage of Trinity Methodist Episcopal Church of this city, \$10,000, \$5,000 of said amount to be paid so soon as it may be required for building said mission building, and the balance to be paid within the



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year 1885, provided Mr. H. N. Higinbotham, who has purchased the lots for the said building, do execute a contract in writing that the lots on which said building is erected shall be conveyed to this corporation within three years, free from incumbrance, to be held by this corporation until there is a legally incorporated Methodist Episcopal Church to take and hold the same; then to be conveyed by this corporation with the usual conditions of deeds given by this corporation, to said Church. This donation is influenced by the liberality of Mr. H. N. Higinbotham."

5. That this action of the trustees of the First Church was communicated to the official board of Trinity Church by the committee which it had appointed to apply to the Board of Trustees of the First Church, which resolution was entered on the records of the official board of Trinity Church. The record then proceeded as follows:

"The Committee recommended that the very liberal donation of the lot (purchased by him at a cost of \$7,500) by Brother Higinbotham, and the ten thousand dollars (\$10,000) appropriated by the Clark Street board, be accepted, with hearty thanks. On motion, the report and

## GENERAL CONFERENCE DECISIONS.

recommendation of the Committee were adopted."

The record also discloses that a Committee was appointed to obtain plans and specifications for the erection of the proposed mission church building, and that subscriptions were taken in the board toward the building of the mission church, with the view of raising \$10,000 in addition to the \$10,000 appropriated by the First Church, and that \$6,200 was subscribed, and that among the subscribers to this fund is entered the name of H. N. Higinbotham.

6. That a building was subsequently erected upon the property in controversy for the use of the mission, and upon its completion the mission entered into possession thereof under the name of Marie Methodist Episcopal Church, and the building was dedicated as a church.

7. That Mr. Higinbotham never executed a written contract as provided for in the resolution adopted by the trustees of First Church, as above set forth, and never transferred the property to the First Church nor to the Marie Church, but transferred the title to Trinity Church, and in a letter transmitting the deed to the Board of Trustees of Trinity Church, dated March 12, 1885, he said:

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"I beg to inclose deed of the Wentworth Avenue and Bushnell Street lots on which we are to build the new mission. At the time I made the proposition to give these lots, I supposed they were to be deeded to Trinity trustees; subsequently, I learned that the Clark Street (First Church) board preferred that the deed should be made out to them, and I was ready to make it when I was called upon by Messrs. Busby and Clancy, who advised me to make it to the trustees of Trinity. I do not wish either Clark Street (First Church) or the Trinity board to understand that I am at all captious about the matter, and I am willing to make a deed to Clark Street (First Church) board if they prefer, and if the two boards agree that it shall be so made, in which event you may hold the present deed unrecorded and a new one can be executed accordingly. If, however, this deed shall be accepted, I think it would be well for the Clark Street (First Church) board to rescind its former action."

8. That when Marie Church had become incorporated and competent to take title to itself it called upon Trinity Church to recognize the trust character of the title it had received from Mr. Higinbotham and to make conveyance

## GENERAL CONFERENCE DECISIONS.

thereof according to the spirit and intent of the agreement under which the donation of \$10,000 had been made by the First Church; but its demand was refused. Thereafter, and after much unavailing effort to bring about a settlement by amicable efforts, Marie Church brought an action in the courts of Illinois to have the trust established and the title transferred to it. The action was based upon the oral understanding of the parties, the written evidence of the agreement specified above having been forgotten or overlooked. Trinity Church having appeared, made the defense that under the laws of Illinois the alleged trust agreement could not be enforced by the courts, not having been reduced to writing, as required by the statute of frauds. The case went to the Supreme Court of the State, which sustained the objection and dismissed the bill. (Marie M. E. Church vs. Trinity M. E. Church, 205 Ill. 601.)

9. That thereafter Marie Church brought the case to the General Conference of 1908, and the order was made as hereinbefore set forth, the disobedience to which has led to the submission of the present memorial.

10. That thereafter Trinity Church, having failed to comply with the order made by the

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General Conference of 1908, requiring that Church to transfer the property in controversy to Marie Church, the latter Church again went into the courts of Illinois and asked that the courts should enter a decree establishing the trust and requiring the transfer of the title. In this suit Marie Church relied upon the written evidence as to the agreement already referred to, and which had come to light since the first suit, which had been dismissed in the manner before mentioned because there was only oral evidence of the agreement of the parties. In addition, Marie Church relied on the action of the General Conference. The Circuit Court referred the case to a Master to take the evidence and report thereon. The Master reported that the written evidence was a sufficient writing to comply with the requirements of the statute of frauds. The Circuit Court took the same view in an elaborate opinion in which the Court said:

“In view of the provisions of the law above quoted, limiting the powers of First Church to make donations, of the resolutions adopted by it, the language of the letter of Mr. Higginbotham and the resolutions of Trinity Church, accepting the donations, it seems evident to me

## GENERAL CONFERENCE DECISIONS.

that Trinity Church took the title to the property charged with a trust, and that the resolution of Trinity Church above noted in connection with the resolution of First Church, the deed of conveyance, and the letter of Mr. Higginbotham fully satisfies the requirements of the statute of frauds that all express trusts must be in writing."

The Court decreed that Trinity Church should convey to Marie Church the property in controversy.

Trinity Church appealed from this decision to the Supreme Court of Illinois. That Court reversed the decree and dismissed the bill. The decision was based upon the theory that the former judgment of the Supreme Court was conclusive on the parties, and that the question was *res adjudicata*, the parties to the controversy and the subject-matter of the two suits being identical. The Court also declared that the newly discovered written evidence was not sufficient to satisfy the statute of frauds and did not, therefore, make Trinity Church a trustee of the title for Marie Church.

11. Thereupon Marie Chapel brought the case to this General Conference for such relief as it may be possible to grant.

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Attention is called to the fact that this case comes here on the memorial of the Marie Church, calling attention to the decision and order of the General Conference of 1908, and of the failure of Trinity Church to comply therewith, and asking for such further assistance as this Conference may be able to render.

There is no memorial from Trinity Church explaining why it has failed to obey the order made by the General Conference, or pointing out any errors therein, or asking relief therefrom.

It is to be said, however, that on the reference of the memorial of Marie Church to this Committee, we gave notice of a hearing to the president of the board of trustees of Trinity Church, and he, as well as the representatives of Marie Church, appeared before us and made their respective statements. We failed, however, to learn from the statements then made of any adequate reason for the failure of Trinity Church to obey the General Conference order.

Your Committee is of the opinion that the action taken in this case by the General Conference of 1908 should be regarded as conclusive upon the parties and upon this Conference as to the question then determined. The doc-

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trine *res adjudicata* is as applicable in the courts of the Church as in those of the State. That doctrine is that if an action be brought and the merits of a question be considered and determined between the parties and a final judgment be obtained by either party, the parties are concluded and cannot again have the same matter passed upon in another action. The doctrine rests on two maxims of the law. These are: (1) A man should not be twice vexed for the same matter. (2) It is for the public good that there be an end of litigation. For these reasons this General Conference should accept the action of the General Conference of 1908 as conclusive of the question that in the courts of the Church it is the duty of Trinity Church to transfer the title to the property in controversy to Marie Church, and that the order then made that such transfer should be made is not now open to reconsideration. If this be so, the only matter now to be determined is what steps this General Conference can and should take to enforce the order made in 1908. But before passing to a consideration of that question it seems to us proper to briefly refer to some other features of the case.

The case now presented to the General Con-



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ference, and which this Committee is called to report on, does not involve the question whether the last decision made by the Supreme Court of Illinois in the controversy between Marie Church and Trinity Church was correct in holding that a technical trust did not exist under the laws of Illinois, and that the civil courts would not compel a transfer of the title to Marie Church.

Whether that decision was right or wrong is not now open to inquiry either here or elsewhere. We must accept it as conclusive so far as the legal and equitable rights of the parties are concerned in the courts of the State. It does not by any means follow, however, that because Marie Church has no right in the civil courts to compel a transfer of the property in controversy it has no rights in this property which the General Conference can recognize.

In important particulars the courts of the Church and the courts of the States differ in the principles which they administer and in the methods of procedure by which they are governed. That such a difference exists is not at all remarkable. It has existed for centuries in England, from which our jurisprudence has been derived. The difference between the courts

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of the Church and the courts of the State is no more distinct than is the difference which exists between the courts of law and the courts of equity in the system of State courts. Under the State system a party who would not be entitled to any relief whatever in a court of law might be granted on the same state of facts the most complete and adequate relief in a court of equity. In like manner a party who has no relief in the courts of the State may not on that account be remediless in the courts of the Church.

It is clearly within the province of the General Conference, sitting as the highest court of the Methodist Episcopal Church, to grant relief to a party who because of legal technicalities can obtain no relief in the State courts.

The General Conference is not concluded by the statute of frauds any more than it is by the statute of limitations. The General Conference should not recognize the statute of limitations as a sufficient explanation of the failure to perform an otherwise valid obligation. No more should it, in our opinion, accept as a valid explanation of the failure to carry into effect an otherwise valid trust, the fact that the agreement creating it rested in parol and not in such

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written evidence as the statute of frauds made necessary in the civil courts.

We call attention to the fact that the decision made by the Judiciary Committee in 1908 was not based on the legal technicalities of the case. That committee in its report made that fact plain—it expressly said: “Without attempting to pass upon the merely technical legal rights, if any, growing out of the failure of the suit brought by Marie Church in the civil courts, we hold that the claim of Trinity Church to own said property and to exclude Marie Church therefrom, and its assumption of authority to lease the same to a Church of another denomination, is unfounded, inequitable, and contrary to good conscience and the plain teaching of God’s Word.” (Journal, 1908, page 466.)

This fact was also clearly brought out in what was said by a member of the Judiciary Committee, Judge Weaver of the Supreme Court of Iowa, in the discussion which took place in the General Conference when the report was adopted. He said: “When Trinity Church came into court, what did it say? As lawyers say, they demurred. They said, ‘Even if it be true that we did agree to this trust

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agreement, yet as it was not put into writing, this court cannot enforce it.' And under the laws of the State of Illinois the Court had to say so. I undertake to say that that was one of the technical rights which a Christian Church ought not to be permitted to assert or claim in a Methodist General Conference.

"If a man is sued upon an account, or a promissory note, which has been due more than six years, or ten years in some States, and he may under the statute come in and say, 'You have waited too long. It is true I owe that note, but you have waited too long, and I won't pay a cent,' that is a legal right; but it is not the right of a Christian or a Christian Church to make that plea; and so I say in regard to this claim of the decree of court as bearing upon this trust agreement." (Daily Christian Advocate, June 1, 1908, page 7.)

While we regard the case as closed as to the questions in controversy which were passed upon by the General Conference of 1908, we feel free to state that if the decision then made were not to be regarded as conclusive upon us, we find no reason which leads us to believe that error was committed in making the order which the General Conference made when it

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directed that Trinity Church should transfer the title to the property in controversy to Marie Church.

Trinity Church, through a representative who appeared before the Judiciary Committee of 1908, contended that it had not sufficient notice of the appeal taken to the General Conference of that year. This contention was held to be not well taken, but Trinity Church has since continued to reassert the insufficiency of the notice. It is sufficient to say that after the appeal was taken to the General Conference of 1908, and while it was pending, it appears that the Board of Trustees of the Rock River Annual Conference wrote a letter to the Board of Trustees of Trinity Church, submitting certain propositions for the adjustment and settlement of all disputes respecting the title to the property in controversy.

The Board of Trustees of Trinity Church, on January 28, 1908, answered the said letter, and among other things said:

“The board has carefully considered the propositions therein referred to, and is unwilling to comply with your suggestions; first, for the reason that the question of jurisdiction has arisen. From the Minutes of the Sixty-eighth

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Session of the Rock River Annual Conference, page 35, it appears that the whole case has been appealed from the decision of the presiding Bishop to the General Conference. In other words, if this record is correct, it does not occur to us that a lesser body than the General Conference can now deal with this matter pending its consideration by the General Conference."

In view of this correspondence, carried on while the appeal was pending before the General Conference of 1908, and three months before that General Conference assembled, it is evident that Trinity Church was clearly estopped from denial that it had no notice or no sufficient notice of that appeal. It could not take advantage of the appeal when it suited its purpose to deny the jurisdiction of the trustees of the Rock River Conference, and then repudiate the appeal when it suited its purpose to ignore the jurisdiction of the General Conference.

Although the order of 1908 has not been complied with, the Bishops presiding in the Rock River Conference, have regularly appointed ministers in charge of Trinity Church. This, it has been suggested, they have done on the ground that the General Conference, while

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ordering Trinity Church to transfer the property, did not attach any penalty to the failure of that Church to obey the order. It is within the province of a Bishop presiding in an Annual Conference to strike an insubordinate Church from the list of Conference appointments. That power has been exercised and the right to do so sustained by action of the General Conference of 1864. (See Journal, pages 357 and 358.)

It is the duty of Bishops to maintain the authority of the General Conference, and when a Church is in a state of insubordination, and refuses to obey the orders of the General Conference, a Bishop presiding in the Annual Conference to which that Church belongs should leave such Church off the list of Conference charges and make no appointment of a pastor in charge; and he should direct that its name should be omitted from the list in the official Minutes so long as it continues in disobedience to the constituted authorities. It would be a serious mistake not to enforce discipline in the Church. John Wesley fully appreciated this, as is shown by the manner in which, in 1782, he dealt with the Bristol preachers. He was determined to maintain discipline. In requir-

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ing one of the number to be put "out of our Society," his words were: "The first loss is the best. Better forty members should be lost than our discipline be lost." (Neely's "The Governing Conference in Methodism," page 54.) The action of the Bishops, in the particular case now before us, may have been due to the fact that the case was regarded by them as not yet settled, owing to the litigation which has been pending throughout the quadrennium and to their uncertainty as to its effect upon the order made by the General Conference.

Trinity Church, not having complied with the order of the General Conference of 1908, is in contempt of the authority of the Methodist Episcopal Church of America, and is in open and determined insubordination thereto. Such disobedience, if permitted to continue, would be destructive of all order and discipline in the Church and would bring Methodism and the General Conference into disrepute. The time has come when this General Conference should, in defense of the Church and in justice to itself, exercise all its power and influence to compel Trinity Church to comply without further delay with the order made by the last General Conference.



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Your Committee on Judiciary therefore recommends :

1. That the General Conference reaffirm the action taken in this matter by the last General Conference, and that it direct and order that Trinity Methodist Episcopal Church of Chicago, Illinois, and the Board of Trustees of said Church, do make, execute, and deliver, on or before September 1, 1912, a good and proper deed to the Marie Methodist Episcopal Church of the city and State aforesaid, or to its Board of Trustees, of the property on which the Marie Methodist Episcopal Church is erected, and deliver possession of the said property.

2. That in case the said Trinity Methodist Episcopal Church, or its Board of Trustees, fail or neglect to comply with this order, and do not make, execute, and deliver a good and sufficient deed conveying to the Marie Methodist Episcopal Church or to its Board of Trustees, all right, title, and interest that the said Trinity Church or its Board of Trustees may have in the property on which the building occupied by Marie Church stands, then the Bishops of the Methodist Episcopal Church are hereby directed that no one of their number shall appoint any preacher as pastor in charge of Trinity

## GENERAL CONFERENCE DECISIONS.

Church until the aforesaid order has been complied with, but shall allow it to remain unsupplied.

And it is further ordered that no District Superintendent shall in such case and between the sessions of the Rock River Conference assign any preacher to take pastoral charge of said Trinity Church while the order aforesaid remains uncomplied with.

3. That in case the Board of Trustees of Trinity Methodist Episcopal Church has not complied with the aforesaid order on or before August 1, 1912, and in case the laws of Illinois permit the election of trustees under provisions of paragraph 321 of the Discipline, then the pastor of Trinity Church is directed to call a meeting of all the members of Trinity Church above twenty-one years of age, giving notice at least two weeks in advance thereof; and the members shall proceed to elect by ballot not less than three nor more than nine persons having the qualifications prescribed in paragraph 319; and the persons receiving a plurality of the votes cast shall constitute a Board of Trustees of Trinity Church until their successors are elected in accordance with the provisions of the Discipline; and the Board of

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Trustees so elected shall convey to Marie Church the property claimed by the latter, the conveyance to be made in the manner above directed.

4. That Trinity Methodist Episcopal Church of Chicago, Illinois, be barred from all its former rights in the Rock River Conference so long as it remains disobedient to the orders made in this case by this General Conference. (*Journal, 1912.*)

**A Church held in contumacy by the General Conference may be restored to its forfeited rights by obedience to the law of the Church.**

Your Committee on Judiciary recommends for your adoption the following:

In the case of Trinity Methodist Episcopal Church, of Chicago, Illinois, and the Marie Methodist Episcopal Church of the same city, it appears that the orders of the General Conferences of 1908 and 1912 have never been complied with. Trinity Church is therefore in contempt of the authority of the Methodist Episcopal Church, and has been for the past eight years. Inasmuch as it has been defiant of that authority the Bishop presiding in the Annual Conference within the boundaries of which these churches are situated, acting under the

## GENERAL CONFERENCE DECISIONS.

orders of the General Conference, has left Trinity Church "unsupplied" with a pastor; no District Superintendent has assigned any preacher to take pastoral charge of that Church during the period which has elapsed since 1912, nor has any District Superintendent held Quarterly Conferences, or made visitations to said Church since that date, and that Church has been barred of its former rights in the Rock River Conference, according to the order made by the last General Conference that this should be done until these orders should be complied with.

The attention of your Committee has been called to the fact that the Bishop has not dropped Trinity Church from the list of churches enumerated in the Journal of the Rock River Conference. The Committee, however, believes that the Bishop has intended to comply with the order of the General Conference as he understood it; and while he would have been justified if he had omitted Trinity Church from the Conference Journal so long as it remained contumacious, he should not be censured for not having understood that in ordering Trinity Church deprived of its rights in the Rock River Conference so long as it continued to disobey the

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orders of the General Conference, that Church lost under that order the right to have its name listed in the Journal as among the Churches of the Rock River Conference.

Trinity Church has now transmitted to the General Conference a Memorial which has been referred to this Committee by the action of the General Conference. This document shows a desire to have its difficulties adjusted, and to be restored to the privileges of which it has been deprived because of its disobedient conduct. The Conference might have refused to receive any communication from it until it complied with the orders made in 1912. But this Committee, while believing that the authority of the Church can never in the end be defied successfully by any Methodist Episcopal Church, still believes that the orders made in 1912 may be modified. Trinity Church in the Memorial now in our hands states that it earnestly desires that "a strong central organization may be created in the section in which it and the Marie Church are established, and that it is "ready to cooperate in a wise and equitable plan to launch such a movement," and that the use of its property and resources will be available for such a purpose.

## GENERAL CONFERENCE DECISIONS.

We advise that its overtures be received in the spirit in which they have been made. In the interest "of the work, harmony, and peace," it asks the Conference to appoint a Committee to be approved by the resident Bishop, which Committee shall be "authorized to make arrangements for the reorganization of the work in said territory with Trinity and other Methodist Churches which may desire to cooperate," and it further requests that as soon as an agreement satisfactory to the resident Bishop and the majority of said Committee shall have been reached with Trinity Church, with reference to the above work, the Bishop be authorized to restore the former relations which existed between Trinity Church and the Rock River and General Conferences.

In view of this communication, and in the "interest of the work, harmony, and peace," as advocated by Trinity Church, we recommend the General Conference to declare as follows:

First, that Trinity Church is recognized by it as a Methodist Episcopal Church, now deprived of its full rights as such until such time as those rights may be fully restored by its compliance with the orders already made, or such

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as may be made by the action of this Conference.

We also recommend that this Conference declare: Second, that Trinity Church be restored to full rights and privileges in the General and in the Rock River Conference if it shall on or before October 1, 1916, transfer the title to all its property, according to the laws of the State of Illinois, to the Chicago Home Mission and Church Extension Society, a corporation existing under the laws of the State of Illinois, and having its principal office in the city of Chicago, in said State, the said property to be held in trust for the purposes of the Methodist Episcopal Church in said city, and subject to the rules and Discipline of said Church. And if, in addition, the said Trinity Church shall forever discontinue all actions at law or suits in equity which may now be pending in the courts against Marie Church and its trustees and pastor, or against any one of them, growing out of claims for rent or for use and occupation, which claims have grown out of the differences which have arisen between these two Churches; and if in addition the said Trinity Church shall release any personal judgments it may have already obtained against Marie

## GENERAL CONFERENCE DECISIONS.

Chapel or Marie Church, or its pastor or its trustees, growing out of claims arising out of the differences above mentioned; and if, in addition, the Bishop having Residential Episcopal Supervision and presiding in the Rock River Conference has entered in the Journal of that Conference during its session in October next his certificate that the above conditions have been complied with.

It is understood that Trinity Church is not required to release any judgment it may have obtained establishing the fact that its title to any of its property is not held in any way in trust for the Marie Church. That in law it does not hold in trust for the Marie Church or Chapel has been established by the Supreme Court of Illinois. The General Conference of 1912 recognized, on the recommendation of the Judiciary Committee, the conclusiveness of that decision, and we regard that controversy as closed for all time.

We also recommend: Third, that Marie Church be also directed in like manner to release any personal judgments, if any there be, which it has obtained against Trinity Church or any of its officers, as well as any suits which may now be pending against the latter Church



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or its officers and which have grown out of this unhappy controversy, provided, however, that Trinity Church complies with the like conditions above stated.

We also recommend: Fourth, that in case Trinity Church does not transfer its property to the Chicago Home Mission and Church Extension Society on or before October 1, 1916, that then and in such case the General Conference, by the adoption of this report, instructs the Bishop having Residential Episcopal Supervision at Chicago to proceed immediately to consolidate Trinity Church and Marie Church, and if it shall seem to him desirable, any other Methodist Episcopal Church or Churches in that section of Chicago in which the two first-named Churches are located. He is authorized and directed to give a new name to the consolidated Church, and to appoint its first Board of Trustees, it being understood that their successors shall be chosen in the usual manner, and to take such other steps as may be necessary to carry out the purposes of this Conference as disclosed herein. This power of consolidation is given now to the Bishops. See paragraph 553. The power has been exercised from the beginning of our Church life. It has been held to be

## GENERAL CONFERENCE DECISIONS.

resident in the Bishop presiding in an Annual Conference by virtue of his power to "fix the appointments of the preachers." See the *Journal*, 1900, page 422.

It was decided in *Trinity Church v. Harris*, 73 Conn. (1898), that where a Bishop of the Methodist Episcopal Church, in the exercise of his authority, consolidated two or more Methodist Churches, the courts of the State would compel the trustees of the Church objecting to and resisting the consolidation to transfer the property of such Church to the new trustees of the consolidated Church. In that case Bishop Walden had consolidated three Methodist Churches in Norwich, Connecticut, on his own initiative, and the court of last resort in Connecticut fully recognized his right to do so and the duty of the trustees of one of the Churches which resisted and defied his order, to transfer the title to the newly appointed trustees of the united congregations.

The authority of the General Conference over all the Churches of the Methodist Episcopal Church is not to be disregarded and set at naught by any of them, and all must conform to the rightful exercise thereof. (*Journal*, 1916.)

## CHAPTER VII.

### MISSIONS.

**A Mission may be organized without the consent of Annual Conferences in which are Churches incorporated in the Mission.**

The Committee on Judiciary has carefully considered the questions concerning the organization of the Italian Mission, which were referred to it, viz.: (1) Whether the Italian Mission was legally organized, and (2) whether said organization may be continued without the concurrence of the Annual Conferences having Italian Churches within their bounds.

This petition does not come from any Annual Conference. If there were anybody which could enter complaint of violated rights, it would be the Annual Conferences within whose bounds the work of the Italian Mission is in operation. As there has been no such complaint, the question is purely academic.

The Italian Mission was authorized by the

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General Conference of 1908. See Journal, page 514, as follows: "Italian Mission shall include all the Italian work in the territory included between a meridian drawn west of Indianapolis, Indiana, and the Atlantic Ocean."

It is claimed in the petition that "no enabling act for the organization of an Italian Mission had been approved previously by the General Conference, and no notice had been given to the Annual Conferences, affected by the organization of said Mission of the proposed change in their respective territory."

So far as the Journal of 1908 shows there was no "enabling act" for this purpose passed that year. It was not necessary that such an act should be passed. An enabling act is necessary only when the proposed changes cannot be consummated at the session of the General Conference. In this case the approval of the Bishops and the authorization of the General Conference completed the steps necessary to forming the Italian Mission.

An examination of paragraph 484 shows that it provides for "change of boundaries of Annual Conferences or Mission Conferences or the division or absorption of Annual Conferences or Mission Conferences out of the terri-

## MISSIONS.

tory already occupied by organized Conferences." Neither in this paragraph nor elsewhere in the Discipline is there any direction concerning the organization of a Mission, but rather the method of procedure when Annual Conferences or Mission Conferences or Missions already formed are to be united or divided or absorbed.

The power to organize a Mission rests with the Bishops on the authorization of the General Conference acting through its Committee on Boundaries. By the same body a Mission may be dissolved. If it is later to be organized into a Mission Conference or united with another Conference, it must be by the process indicated in paragraph 484.

For matters of administration, the relation of a Mission to an Annual Conference is the same as that of a District Conference. The members of the Italian Mission hold their membership in the respective Annual Conferences in which their Churches are located, so that the boundaries of these Conferences are not changed.

Answering categorically the questions submitted: (1) The Italian Mission was legally organized. (2) Said organization may be continued without the concurrence of the Annual

## GENERAL CONFERENCE DECISIONS.

Conferences having Italian Churches within their bounds. (*Journal*, 1916.)

### **Transfer of Missionaries in the Japanese Work.**

Your Committee on Judiciary, having carefully considered the memorial of the missionaries of the Methodist Episcopal Church in Japan connected with the East Japan Mission Council, asking permission to accept certain courtesies in the autonomous Japanese Methodist Church, respectfully reports:

The Committee has carefully considered the legal questions involved, and, while we cannot concur in the request for the reasons stated in the action of the General Conference of 1908 (*Journal*, 1908, pages 731-733), it is of the opinion that this General Conference can grant the substance of the request by removing the footnote at the end of the third paragraph on page 733 concerning reciprocal transfers, as follows: "This provision for transfers does not apply to missionaries engaged in educational work"; thus making it possible for our missionaries, while engaged in other than direct evangelistic work, to accept, for special service only, appointments as pastors, assistant pastors,

## MISSIONS.

of members of certain Benevolent Boards in the Japanese Methodist Church, provided that upon request they are duly transferred to said Japanese Methodist Church under the provision for reciprocal transfers. (*Journal*, 1912.)

### **Committees on Boundaries has power to Change boundaries of Missions.**

The Committee on Judiciary was requested to render an opinion upon the legality of submitting the question of boundaries to a Mission for ratification or rejection, and further as to whether the Committee on Boundaries, acting for the General Conference, does not possess power to determine the boundaries of a Mission without the consent of such Mission.

Under ¶ 452, Discipline of 1908, a Mission superintendent may give notice of the desire of the Mission concerning a change in the boundaries of said Mission; but the Committee on Boundaries may adjust the matters involved in said petition, subject to the approval of all the Annual and Mission Conferences concerned. As a Mission is neither a Mission Conference nor an Annual Conference, it is not legal for the Committee on Boundaries to sub-

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mit the question of boundaries to a Mission for its ratification or rejection, and the Committee on Boundaries, acting for the General Conference, has power to determine the boundaries of a Mission without the consent of such Mission.



## CHAPTER VIII.

### LEGAL NOTICE.

**A legal Notice must state the source and the purpose of the Notice.**

On the memorial sent to us from the Committee on Boundaries by order of the General Conference, we beg leave to report as follows:

This memorial presents two questions: The first question is: What constitutes a legal notice under paragraph 484?

To this question we return the following answer: A legal notice under paragraph 484 should specifically indicate the source from which it comes, whether from an Annual or Mission Conference or Mission, or from a majority of the District Superintendents and mission superintendents, as the case might be. It also should state the purpose of the Conference, or the District Superintendents by whom the notice is given to present the request for a change of boundaries to the General Conference, and should further indicate, in general terms,

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the character of the change in boundaries which sought to be effected. The notice should be served upon or delivered to the secretary of any and every Conference to be affected by the proposed change.

The second question is this: Has the Kansas Conference been legally notified of the purpose of the Northwest Kansas Conference, and is the case legally before the Committee on Boundaries?

Upon this question there have been submitted statements from each of the Conferences concerned. These statements are in substantial agreement as to the facts, but differ in their interpretation of the facts. The Northwest Kansas Conference affirms and the Kansas Conference denies that legal notice, under paragraph 484, was given to the Kansas Conference. The facts in which both statements agree are that the Northwest Kansas Conference at its session in 1915 adopted resolutions proposing a readjustment of the boundary between that Conference and the Kansas Conference, providing for the creation of a Commission to represent the said Northwest Kansas Conference in effecting such readjustment, and requesting the Kansas Conference to raise a like Commission

## LEGAL NOTICE.

in order that the matter might be properly presented to the General Conference of 1916. Due notice of this action was served upon the Kansas Conference. This Conference voted not to concur in the request of the Northwest Kansas Conference, in consequence of which nonconurrence the whole proposed action under paragraph 483 fell to the ground.

It does not appear from the statement submitted by the Northwest Kansas Conference that notice was given of any proposed disciplinary action other than the request for the creation of a Commission as provided in paragraph 483. It further appears that although the vote of the Kansas Conference not to concur in the request of the Northwest Kansas Conference was duly communicated to that Conference, no action was taken by the Northwest Kansas Conference upon the said communication, and no notice of any other action upon the part of the Northwest Kansas Conference was given either at that time or subsequently.

We, therefore, answer that while the notice sent to the Kansas Conference was a sufficient legal notice of action under paragraph 483, it was not in any sense a legal notice of action under paragraph 484, which is an entirely dif-

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ferent proceeding and not even implied in notice of action under paragraph 483, that the Kansas Conference has not been legally notified of the purpose of the Northwest Kansas Conference, and that the case is not legally before the Committee on Boundaries. (*Journal, 1916.*)

## CHAPTER IX.

### PREACHER ON TRIAL.

**A Preacher on trial in an Annual Conference is a layman.**

Your Committee on Judiciary, to which was referred the petition of William F. Rice, District Superintendent, Central District, Chile Conference, asking for a decision concerning the right of a local preacher admitted on trial in the Annual Conference the preceding year, to sit in the Lay Electoral Conference, having carefully considered the same, submits the following report:

A society of the Methodist Episcopal Church in the Chile Annual Conference, elected as its lay delegate to the Lay Electoral Conference of 1912 its pastor, who was a local preacher who had been admitted on trial in the Annual Conference the preceding year; so that he was in the studies of the first year in the Conference course.

The District Superintendent at the Quar-

## GENERAL CONFERENCE DECISIONS.

terly Conference which ratified the election ruled that the brother was not a member of the Annual Conference, but was a layman within the meaning of the Discipline, and was therefore eligible for membership in the Lay Electoral Conference.

The right of this brother to sit in the Lay Electoral Conference was challenged on the ground that he was a preacher on trial in the Annual Conference, and had no right to vote as a layman.

The presiding Bishop was called upon to decide the point in the Lay Electoral Conference, and gave a verbal ruling that as a preacher on trial in the Annual Conference, the brother had no right to sit in the Lay Electoral Conference; and he was therefore excluded from the Lay Electoral Conference.

The General Conference of 1872, at which time laymen were admitted to membership in that body, adopted the following resolution: "That in all matters connected with lay delegates, the word 'Laymen' must be understood to include all members of the Church who are not members of the Annual Conference." (General Conference Journal 1872, page 442.)

The resolution above quoted has never been

## PREACHER ON TRIAL.

repealed. Not all preachers are members of the Annual Conference. The distinction is made between those who are on trial for admission and those who have been admitted to full membership, paragraphs 36 and 74.

Paragraph 148, section 2, provides that, "Taking on trial is entirely different from admitting a preacher into full membership. One on trial may be either admitted or rejected without doing him any wrong; otherwise it would be no trial at all."

A preacher on trial cannot be admitted into full membership in an Annual Conference until he has complied with the requirements of the Discipline relating thereto (paragraphs 152 and 153), and he cannot participate in the proceedings of the Annual Conference until he becomes a member thereof.

The brother in question was, therefore, not a member of the Annual Conference, and, being on trial for admission, was only in process of becoming a member thereof.

The Discipline prescribes a different procedure in the case of the trial of a member of an Annual Conference (paragraphs 232 and 233), and in the case of a preacher on trial in an Annual Conference, who is in reference to

## GENERAL CONFERENCE DECISIONS.

amenability and appeal considered as a local preacher (paragraph 248), and tried in the same manner as a local preacher (paragraphs 249 to 255).

Your Committee is therefore of the opinion that the local preacher in this case, who was on trial for admission to membership in said Annual Conference, was a layman, within the meaning of the Discipline, and if in good standing and of requisite age and membership in the Church, was eligible to election as a member of the Lay Electoral Conference, and the verbal ruling of the Bishop is not sustained. (*Journal, 1912.*)



## CHAPTER X.

### STUDIES.

#### **Grade in Course of Study is on each study.**

Your Committee on Judiciary, having carefully considered the record of the appeal by ———, of East Ohio Conference, from the decision of the presiding Bishop on the meaning of "Average grade or grade in course of study," reports as follows:

The question presented for consideration was raised on paragraph 65, section 5, Discipline of 1908, which reads as follows: "The examination shall be graded upon a scale of 100, and none below 70 per cent shall pass."

Does this mean the average grade on course of study, or the grade for any given study?

The Bishop decided, "It refers to the average grade," and from this decision an appeal was taken to the General Conference.

The law of the Church requires a minimum grade of 70 in every study upon which an

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examination is taken. Without this grade no candidate can be advanced in his standing. This is clear from paragraph 64, section 1, Discipline of 1908, where this provision is distinctly referred to and interpreted, and wherein it is provided that certificates from theological seminaries, universities, and colleges, approved by our University Senate, may be accepted by the Annual Conferences; *provided*, (1) That each certificate shall distinctly show that the student has been a regular attendant on classroom instruction in the specified book; and (2) That he has passed a thorough examination in the book, gaining a standing equivalent to that fixed in paragraph 65, section 5. (*Journal, 1912.*)

### **Status of Local Preachers in regard to Courses of Study.**

Your Committee on Judiciary recommends for your adoption the following:

The appeal of ——— from the decision of Bishop ——— at the fortieth annual session of the Columbia River Annual Conference, held September 2-8, 1913, raises questions relative to the status of local preachers with regard to course of study, etc. The following taken

## STUDIES.

from the Minutes of the Conference shows the proceedings had:

*Questions:* "What is the status of local preachers with regard to course of study, when such local preachers have for years had their license renewed and who do not intend to enter the regular ministry as members of an Annual Conference?

"1. May their license be renewed without an examination in the course of study without exception?

"2. Is it mandatory upon all without exception that they pass in the required course of study?

"3. Is it necessary, having passed the four years' course, to be called upon later to pass examinations?

"4. A local preacher, having had his character passed and license renewed for four consecutive years without the Quarterly Conference examining him in the required course, does not the fact of renewing his license amount to an examination as prescribed by the Discipline?

"5. Is any General Conference legislation retroactive unless distinctly specified?

"6. Is a District Superintendent justified in refusing to receive the recommendation of

## GENERAL CONFERENCE DECISIONS.

pastor for renewal of license of a local preacher, no charges being filed against him?"

*Answer:* The chair declines to decide on the points presented without excluding the words, "without exception."

The chair decides on the proposition as a whole that all local preachers seeking a renewal of their license must pass an examination.

After having carefully examined the sections of the Discipline pertaining thereto, and especially Chapter I, entitled, "Local Preachers"; sections 213, 219, inclusive; Discipline 1912; considering the history of the office, its object and purpose; the practice of the brethren in dealing with such office covering scores of years; not forgetting the remedial character of the legislation sought to be adopted; and also keeping in mind the principle that the letter killeth, but the spirit maketh alive, we conclude and so hold that there are exceptions with reference to the rule requiring local preachers to pass examinations.

It appears that persons desiring to become local preachers may be classified as follows:

Those who have been long in the work and have no desire or expectation of ever becoming traveling ministers.

## STUDIES.

Men both old and young entering the ministry and who expect eventually to become traveling ministers.

Local preachers desiring deacon's or elder's orders.

Two kinds of examinations are contemplated. First, on the doctrine and rules of the Church. Second, as to literary qualifications. The following from Merrill's Digest, page 83, defines the boundaries of each :

"This examination [as to doctrines, etc.] is not of a literary character, and should never be intrusted to a committee. It must take place in the Conference [meaning the Quarterly or District Conference]. The examination on the Course of Study is different, and may be made by a committee. All candidates before receiving a first license, are to be examined in the common branches of an English education, and on their general knowledge of the Bible, and of the doctrines and usages of the Church. These two examinations are distinct, and both requisite. After the license has been obtained the local preacher is required to enter upon the Course of Study prescribed by the Bishops, and to prosecute it regularly during the four years requisite for its completion, and this whether

## GENERAL CONFERENCE DECISIONS.

he contemplates ordination or not. The satisfactory examination is a condition of the renewal of the license, from year to year, till the course is finished."

No course after the fourth year appears to have been provided. It seems clear, therefore, that the provisions relative to examination were made to guard the door as against the entrance of new applicants with doubtful qualifications, both literary and otherwise. It is unthinkable that the General Conference creating the legislation under consideration would with one fell swoop deprive the Church of the services of a large number of local preachers, who had for many, many years been working for their Master in the relation of a local preacher. While the General Conference doubtless had the power so to do, and if it had so acted, its action would not be subject to the objection of being retroactive, yet in the absence of any direct statement of its purpose so to do, we hold that the test of examinations must fall within the discretionary power of the Quarterly or District Conference, as the case may be, to proceed under paragraph 214, section 2, Discipline 1912: "And to renew licenses annually when in the judgment of the Confer-

## STUDIES.

ence their gifts, grace, and usefulness, and their faithfulness and proficiency in study, warrant such renewal."

Large discretion is given this Committee.

If an old war horse for the cause appears, the Conference would be expected to fit the examination to the man; if a younger man appeared, who was a candidate for deacon's or elder's orders, or who was probably seeking to enter the local ministry, hoping eventually to become a traveling minister, greater care would be taken, and the Course of Study should be rigidly insisted upon. Nothing herein should be construed as letting down the bars upon the requirement of an educated, consecrated ministry, but to construe the legislation in the light of the conditions prevailing when such legislation was made.

Answering categorically the questions propounded, we answer:

*Question 1.* There are exceptions.

*Question 2.* Yes, except as to those who have been classified above (No. 1) as having been long in the work and have no desire or expectation of ever becoming traveling ministers, and who, in the opinion of the District or Quarterly Conference, it can be said of them

## GENERAL CONFERENCE DECISIONS.

that "their gifts, grace, and usefulness, and their faithfulness and proficiency in study warrant such renewal."

*Question 3.* No; except for deacon's and elder's orders, as provided by paragraph 573-2.

*Question 4.* Yes, unless an exception was noted at the time his license was renewed.

*Question 5.* No.

*Question 6.* No; if based on affirmative action of the District or Quarterly Conference.

In so far as the decision of Bishop ——— runs contrary to the above, the same is overruled. (*Journal, 1916.*)



## CHAPTER XI.

### TERMS OF OFFICE.

#### **A new District Justifies new term in District Superintending.**

Your Committee on Judiciary, to which was referred for its opinion, a resolution concerning the power of a Bishop to appoint a superintendent, in an Annual Conference in which the number of districts has been reduced, to preside over a district to which there have been transferred a number of charges from the district over which he has presided for six consecutive years immediately preceding such appointment, having carefully considered the same and all the facts relating thereto, respectfully reports as follows:

1. That in the Annual Conference in question, and upon its recommendation, the number of districts had been reduced from six to four, and the names of all the districts but two had been changed.

2. That the Bishop presiding in the Annual Conference appointed a superintendent to preside over a district containing more than fifty

## GENERAL CONFERENCE DECISIONS.

pastoral charges, fourteen of which charges had been transferred to that district from the district over which the same superintendent had already presided for six consecutive years immediately preceding such appointment; the remaining charges on said district having been taken from other districts.

3. That the fourteen pastoral charges thus transferred constituted a minority of the charges on the district from which the transfer had been made, and also a minority of the charges on the district to which they had been transferred.

4. The question presented for consideration is whether the new district over which said superintendent was appointed to preside, is the *same* district as the district from which the fourteen pastoral charges were transferred, within the meaning of paragraph 194, section 3 of the Discipline of 1908, which provides that the Bishop shall not allow a District Superintendent to preside in the same district more than six consecutive years, nor more than six years in any consecutive twelve.

5. In the opinion of your Committee, the district over which said superintendent was appointed to preside, was not the same district

## TERMS OF OFFICE.

from which the fourteen pastoral charges had been taken and over which he had presided as superintendent for six consecutive years. A new district had been created, and the Bishop had power to appoint such superintendent to preside over the same.

6. Your Committee deems it proper, however, to say, in order to avoid misunderstanding, that if so considerable a part of an old district should be incorporated in a new district as to make the latter substantially the same as the former, then the new district ought to be regarded as the same district as the old, and the time a district superintendent presided in the old district should be counted in determining the period he may serve in the new one, paragraph 194, section 3, in case of his assignment from the one to the other district. (*Journal, 1912.*)

### **Tenure of office of Members of the Book Committee.**

Your Committee on Judiciary, to which were referred two questions as to the tenure of office of certain members of the Book Committee, reports as follows:

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### *First Case.*

———, a layman of the Detroit Conference, was elected by the General Conference of 1908 for the period of eight years as a member of the Book Committee to represent the twelfth General Conference District. At the General Conference of 1912 the Detroit Annual Conference was transferred from the twelfth General Conference District, to which it formerly belonged, to the eleventh General Conference District, which last mentioned district, the eleventh, was then represented in the Book Committee by ———. The question is asked as to the tenure of office of said ———.

It is the opinion of your Committee that by reason of the transfer of the Detroit Annual Conference, within the bounds of which ——— resided, from the twelfth General Conference District to the eleventh General Conference District, the said ——— lost his right to represent the twelfth General Conference District on the Book Committee.

### *Second Case.*

———, a layman of the Northwest Iowa Conference, was elected a member of the Book Committee from the eighth General Conference

## TERMS OF OFFICE.

District in 1900 to serve for the period of four years. At the General Conference of 1904, under the regrouping and renumbering of the General Conference Districts, the eighth General Conference District was changed from the eighth General Conference District to the ninth General Conference District; and the said ——— was there and then elected a member of the Book Committee for a term of eight years, which term would expire at the General Conference of 1912.

On page 436 of the General Conference Journal of 1904 is a resolution which reads as follows:

*“Resolved, 1. That this regrouping of the Annual Conferences within General Conference Districts shall not disturb the tenure of office of any member of the Book Committee.*

*“Resolved, 2. That the members of the Book Committee, to be elected by the General Conference to fill vacancies caused by expiration of their term of four years, shall be chosen, one each from the General Conference Districts numbered in the present schedule as follows, namely: Nos. two, four, six, seven, nine, ten, and fourteen.”*

On page 431 of the Discipline of 1908 the

## GENERAL CONFERENCE DECISIONS.

name of ———, Northwest Iowa Conference, appears as a member of the Book Committee for the ninth General Conference District, his term expiring in 1912. In the General Conference Journal of 1908, on page 115, it appears that the term of ———, of the Northwest Iowa Conference, representing the ninth General Conference District on the Book Committee, expires in 1912. The General Conference of 1912 elected a layman, ———, of the Iowa Conference, as a member of the Book Committee from the ninth General Conference District for the period of eight years, and in the opinion of your Committee, ——— ceases to be a member of said Book Committee from the ninth General Conference District as the result of said election. (*Journal, 1912.*)

## CHAPTER XII.

### TRIALS.

**Findings of Investigating Committee cannot be set aside by going behind the Record.**

Your Committee on Judiciary recommends for your adoption the following:

The appeal of ——— of the Tennessee Conference, of Memphis, relative to charges preferred against Bishop ———. The charges were sent to a District Superintendent, ———, and accused the Bishop of having defamed the character of ——— in a letter sent by the Bishop to ——— in reply to one which the Bishop had received from him. The correspondence related to the sale of certain church property. The Bishop's letter, it is alleged, accused ——— of "various and sundry acts." It is also alleged that the letter written by the Bishop made false charges against him and evidenced malice and temper.

It may be remarked that under the common law of the civil courts no action lies for defama-

## GENERAL CONFERENCE DECISIONS.

tory statements written to the man himself who claims to have been defamed and which the writer exhibited to no third party. The reason is that the person addressed could not have been damaged by the false charge so made.

A Committee of Investigation was convened under paragraph 232 of the Discipline. The Committee investigated the charges and reported that the charges were not sustained. What the evidence was is not set forth in the record, beyond the two letters which were referred to. It is impossible, therefore, for this General Conference to find that the conclusion of the Committee of investigation should be set aside, even if it possesses the right to pass upon errors of fact. Whether it possesses the right to pass upon errors of fact is a question which need not be considered, as it is not now involved. As the record discloses no errors of law the appeal should be dismissed. (*Journal, 1916.*)

**An Annual Conference may refuse to entertain Charges against a member.**

Your Committee on Judiciary recommends for your adoption the following:

The facts upon which this appeal has been taken are as follows: Charges were preferred



## TRIALS.

against a member of the Wilmington Conference and the Annual Conference declined to entertain the charges. The appellant asked for a ruling by the President of the Conference as to whether it was lawful for the Conference to pass a motion declining to entertain the charges. The Bishop presiding held, "Under the law an Annual Conference may put on trial an accused member when there has been no previous investigation, but the Conference may decline by formal vote to entertain the charges." From this decision the appeal is taken. Appellant cites paragraph 256 of the Discipline, 1912, which reads: "The Annual Conference, at its discretion, may try an accused member by one of the following methods:" (giving these methods) and states that his appeal requires a judicial decision as to the proper interpretation of the paragraph stating that the question at issue is, "Does the word 'may,' as used in the paragraph, give discretionary powers to an Annual Conference as to the method of trial, or as to whether the charges shall be entertained?" Stated another way, the question seems to be, "Does the Annual Conference have discretionary powers when charges are preferred against a member of Conference as to

## GENERAL CONFERENCE DECISIONS.

whether the charges must be entertained, and the accused put on trial?" Paragraph 253 of the Discipline is as follows: "An Annual Conference may entertain and try charges against the members though no investigation upon them has been held, or though the investigation has not resulted in suspension, due notice having been given the accused." If the Conference has the power to entertain and try charges, the plain inference is that it may refuse to entertain and try charges, and based on this paragraph the ruling of the President of the Annual Conference was correct and must be sustained.

It is therefore held that an Annual Conference has the right to refuse to entertain charges preferred against a member, and that one so accused does not have to be tried if the Conference refuses to entertain the charges. (*Journal, 1916.*)

**A Trial Court may adjourn if the Annual Conference has not finally adjourned.**

Your Committee on Judiciary, having carefully reviewed the records in the appeals of ——— *et al.*, from the decision of Bishop ——— in the case of the Rev. ———, of the

## TRIALS.

Holston Conference, respectfully report as follows:

The Committee is of the opinion that there was no error of law or administration in the adjournment of the sessions of the trial court, the Annual Conference not having been finally adjourned.

In the matter of the testimony of ———, your Committee is of the opinion that said testimony was not relevant, and was inadmissible as evidence for the purpose for which it was offered.

Regarding Exhibitions No. 10 and No. 11, the Committee is of the opinion that the letters in question could not be properly admitted, as evidence in this case, under the hearsay rule. For these reasons the appeal should be dismissed. (*Journal, 1916.*)

### **Suppression of testimony and arbitrary ruling warrants new trial.**

Your Committee on Judiciary recommends for your adoption the following:

In the matter of the appeal of ———, the facts so far as disclosed by the papers are as follows:

Petitioner was a member of Ebenezer Meth-

## GENERAL CONFERENCE DECISIONS.

odist Episcopal Church of ———, of which ——— was and is a deacon and local preacher.

She presented a complaint against him, charging him with immorality and falsehood; in that he had seduced her under promise of marriage, with the not unusual result that a child was born, and he refused to marry her.

A preliminary hearing was held before three local preachers of other churches, of which she knew nothing, until she was asked to appear before them; the accused attended with counsel and witnesses; she had no opportunity to offer either, but the pastor of another church, apparently a just man, but unskilled in trials, was appointed by the pastor of the Ebenezer Methodist Episcopal Church to prosecute the case. The result was an acquittal of the accused.

From that decision petitioner appealed to a District Conference, and the matter was heard September 10, 1915. She was told by the prosecutor that she could not produce witness, but that the trial would be had upon the report of the proceedings at the preliminary hearing and upon affidavits. She supplied affidavits, some of which were used, but those setting forth the confessions of the accused to various witnesses

## TRIALS.

were not offered. Part of the proceedings before the preliminary hearing were admitted and part excluded. The accused and his witnesses were present and testified orally, the former in a sentence denying the charge, and the latter simply asserting that he administered the sacraments satisfactorily. The accused was not cross examined; his witnesses were asked only if they knew anything on the subject-matter of the charge. The part of the preliminary proceedings which was excluded related to the birth of the child.

When the evidence was concluded the presiding officer said that as there was no testimony showing the birth of a child, there was no case before the court, and the accused was thereupon promptly acquitted.

Subsequently the pastor of the Church demanded of appellant that she sign certain papers, which she did without being told of their contents, as she avers. Their contents are not disclosed in the record. This was followed by her expulsion from the Church without trial.

Your Committee is of the opinion that the whole of the proceedings should be set aside, and the matter referred back for a trial in ac-

## GENERAL CONFERENCE DECISIONS.

cordance with the Discipline. By paragraph 303 thereof petitioner was entitled to have written notice of the time and place of trial, and to have written notice issue in the name of the Church, signed by the president or last appointed secretary, and directed to her witnesses, and she and her witnesses were entitled to be heard orally before the trial court. Of all these rights she was denied. The presiding officer also was by that same paragraph forbidden to review or explain the evidence, or set forth the merits of the case; yet here he advised its dismissal because of the absence of proof of the birth of a child, the proof of which he excluded, and the fact regarding which was not denied, and was but the result of the immorality charged, and not the immorality itself. (*Journal, 1916.*)

### **Failure to Comply with Conditions of Exoneration does not preclude new trial.**

This is an appeal from a decision of ———, chairman of the Select Number, constituted by the North Dakota Conference at its annual session of October, 1915, to try the appellee, ———, a minister of that Conference and Dis-

## TRIALS.

trict Superintendent of the Bismarck District, upon a charge of immoral conduct.

The complaint in this proceeding alleged lying as the substance of the offense committed, and contained eleven separate specifications. Upon the trial, the charges embraced in eight of these specifications were dismissed upon the ground that with reference to them the accused had been once in jeopardy; and upon the other three counts the defendant was acquitted. From the decision dismissing the complaint as to the eight counts above referred to, this appeal is taken.

This question of previous jeopardy has reference to the proceedings had relating to the subject of this controversy during the session of the Annual Conference of 1914.

While the record of the proceedings taken concerning the matters herein involved during the session of the Annual Conference of 1914 is not as complete as might be desired, still the complaint in this proceeding lodged with the Annual Conference of 1915, contained the following statement with reference thereto:

“To the Bishop in charge of the North Dakota Annual Conference: At the 1914 session of the North Dakota Annual Conference

## GENERAL CONFERENCE DECISIONS.

of the Methodist Episcopal Church several brethren made complaint against the character of ———, a member of said Conference. The result was that the said ———, in the presence of witnesses, signed a confession of lying, made profession of penitence for his sin, and promise of restitution, truthfulness, and brotherly behavior thenceforth; said written confession being filed among the official documents of said Conference."

Immediately thereafter, in the following language, the complaint explains the reason for instituting this proceeding before the Annual Conference of 1915:

"The conditions on which this confession was accepted at the time by the complainants have not been complied with, his promises have not been fulfilled, and his false and unbrotherly conduct has continued. Now, therefore, we, the undersigned members of the North Dakota Annual Conference of the Methodist Episcopal Church, complain to you that the said ———, a member of said Annual Conference, has been guilty of immoral conduct, and he is hereby charged therewith as follows:"

The confession above referred to, which was executed by the defendant ——— and filed



## TRIALS.

among the official documents of the Conference at the annual session of 1914, is set up in the brief of the complainant herein and may be properly considered as before us. It is broad in its terms and seems to be intended to cover all misleading and false statements and actions said and done up to that time, as well as the specific offenses set forth in the confession. After making such confession, the character of said ——— was passed and the annual session of the Conference of 1914 closed without any further steps being taken against him.

Furthermore, a resolution of harmony was passed at that session of the Conference covering the matters of educational policy and religious emphasis, which questions had evidently given rise to this controversy and been in some measure the occasion of the misconduct to which the defendant ——— had confessed.

While, in a strictly legal sense, the proceedings taken at the time of the Annual Conference of 1914 did not constitute previous jeopardy as to the matters contained in the eight counts which were dismissed at the trial, still the subject was dealt with in such manner as to lead the parties concerned to consider the complaint disposed of.

## GENERAL CONFERENCE DECISIONS.

Moreover, by interposing the plea of former jeopardy at the trial which took place at the Conference of 1915, the defendant in effect took the position that the proceedings above described, which took place in 1914, were equivalent to a trial and conviction of himself for the offenses embraced in his written confession, and also that such written confession related to the same matters that were contained in the eight counts which were dismissed by the decision appealed from; and it would seem that by such plea of former jeopardy the defendant had, in substance, reaffirmed his confession and promise of restitution and future good conduct.

As to the appellant, we would say that the reason given in the complaint lodged with the Conference of 1915, for making the same, was that the defendant, ———, had not kept his promise made at the time of his confession, but has violated the same and committed subsequent offenses.

The Select Number, however, acquitted the defendant upon the charge of such default and subsequent misconduct and thus removed the grounds set forth for making the complaint.

In view of the situation, as above outlined, we discover no sufficient reason for the further

## TRIALS.

continuance of this litigation, and therefore recommend that the appeal be dismissed. (*Journal*, 1916.)

**Where there is no question of law there is no jurisdiction.**

Your Committee on Judiciary, having carefully considered the complaint of ——— against ——— and ———, alleging official misconduct by them in preferring charges against said ——— in the Genesee Conference, respectfully reports:

1. That said complaint, subscribed by said complainant, and not supported by other documentary evidence, was referred to your Committee by this General Conference, as a memorial.

2. That said complaint did not come to your Committee in the regular course of judicial procedure prescribed by the Discipline, and is not a part of the record in any case on appeal before your Committee.

3. That in the opinion of the Committee, no question of law is presented by said complainant for review and determination, and your Committee is without jurisdiction in the matter. It, therefore, returns to the General

## GENERAL CONFERENCE DECISIONS.

Conference with this report, said memorial containing said complaint. (*Journal, 1912.*)

**Where there are no decisions there can be no reversals.**

Your Committee on Judiciary, having carefully considered the records of the Judicial Conference in the case of the Rev. ———, of the Central Provinces Mission Conference, India, respectfully reports that no decisions of questions of law are presented for consideration by the records, and therefore there are no errors of law calling for a reversal of the findings and judgment therein. (*Journal, 1912.*)

**An Annual Conference has power to determine what charges may be preferred.**

Your Committee on Judiciary, having carefully considered the appeal of ———, a member of the Genesee Conference of the Methodist Episcopal Church, respectfully reports as follows:

1. In September, 1910, charges of immorality were brought against the said ———, a member of the Genesee Annual Conference, upon which he was tried by a Select Number, at the session of said Conference held in Roches-

## TRIALS.

ter, New York, in October of that year, and said charges were sustained; and he was expelled from the ministry and membership of the Church.

2. From that decision he appealed; and a Judicial Conference held in Pittsburgh, Pennsylvania, in December, 1910, Bishop —— presiding, remanded the case for a new trial by reason of certain manifest errors of law appearing of record.

3. At the session of the Genesee Annual Conference, held in Le Roy, New York, in October, 1911, Bishop —— presiding, he was again tried before a Select Number, with Bishop —— as chairman, by appointment of the presiding Bishop, ——, when he was again deprived of his ministerial office and credentials, and found guilty and expelled from the *ministry* of the Methodist Episcopal Church, but not from its membership.

4. From that decision an appeal was taken to a Judicial Conference held in Albany, New York, in February, 1912, Bishop —— presiding, which reversed the decision of the Genesee Annual Conference, thereby restoring the said —— to membership in the Genesee Conference. The appeal therefore is not from

## GENERAL CONFERENCE DECISIONS.

the action of the Judicial Conference held in Albany in February, 1912, but from an alleged error of law occurring at the retrial before the Select Number at Le Roy, New York, in October, 1911.

5. At that trial counsel for the Church moved that, inasmuch as the presence of the principal witness in support of Specification III in the charges against ——— could not be had, said specification be withdrawn from the consideration of the Select Number. Counsel for the defendant objected to stating in the motion the reason therein assigned for such withdrawal and moved as an amendment that "Specification III is hereby withdrawn from the consideration of the Select Number," which amendment was lost, and the original motion prevailed. From this action of the Annual Conference the defendant appealed, and bases his appeal on three grounds:

(1) That the action of the Annual Conference was unwarranted.

(2) Such action worked grievous injury to the defendant.

(3) The main statement therein contained was false.

6. In the opinion of your Committee when

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a defendant appeals from the decision of a Select Number to a Judicial Conference it is his duty to present thereto all questions of law as well as all questions of fact of which he complains, and failing so to do, he may not thereafter appeal to the General Conference from any alleged errors occurring at the trial before the Select Number. It therefore follows that having failed to observe this well-established rule of judicial procedure, the appellant cannot now be heard, and hence his appeal is denied. In order, however, to set at rest any similar questions that may hereafter arise, your Committee deems it proper to add, that, inasmuch as the Annual Conference has the power to determine for itself the charges upon which a member shall be tried and the reasons therefor, there was no error of law in withdrawing from the consideration of the Select Number said Specification III and to assign the reason therefor as stated in the motion adopted. (*Journal*, 1912.)

## CHAPTER XIII.

### TRUSTEES.

**Trustees of the Methodist Episcopal Church have power of conveyance.**

Your Committee on Judiciary, having carefully considered the request of E. O. Crist and others for an opinion whether the civil law and the law of the Church, under a proper construction of the will of the late Stevens W. Flower, permit the trustees of the Methodist Episcopal Church to convey the title of the property now known as the Flower Deaconess Home and Hospital, of Toledo, Ohio, to the trustees thereof, approved by the Central Ohio Conference; and having also the request of the Woman's Home Missionary Society for an opinion defining, *first*, the ownership of said Deaconess Home and Hospital; and, *second*, the duties, responsibilities, and privileges of the Woman's Home Missionary Society in connection with this property, reports as follows:



## TRUSTEES.

1. That under the law of the Church, and the terms of the will of the said Stevens W. Flower, the trustees of the Methodist Episcopal Church may properly convey the title of said property to proper trustees, approved by the Central Ohio Conference, to hold the same for the execution of the trust; but that such transfer should be made only with the sanction of the courts of Ohio, and that this General Conference should be recorded as having no objection to making of the same, and should give its consent thereto.

2. That the equitable interest in said property is wholly in the Central Ohio Conference Deaconess Home and Hospital by reason, among other things, of the provision of the will that the same should be "held in trust for the Central Ohio Conference Deaconess Home, under the auspices of the Woman's Home Missionary Society of said Conference," the legal title being in the trustees of the Methodist Episcopal Church.

3. That the Woman's Home Missionary Society of the Methodist Episcopal Church has no duty, responsibility, or privilege conferred upon it, under the terms of said will or by the law either of the Church or State, touching said

## GENERAL CONFERENCE DECISIONS.

property. In the opinion of this Committee, the Woman's Home Missionary Society has no beneficial interest whatever in the subject-matter of the trust. (*Journal, 1912.*)

## ADDENDUM.

### AMENDMENTS.

The proposed Colorado Amendments constitutional.

Your Committee on Judiciary recommends for your adoption the following:

The proposition known as the Colorado proposed amendments having received the necessary two-thirds vote at the Annual Conferences and all constitutional requirements having been complied with, as shown by the certificate of the secretary of the General Conference, there is but one question for determination, and that is, Does anything in the amendments violate any provision of the Constitution of the Methodist Episcopal Church? The Church has unrestricted power to make any Constitution or any rule it desires for its government, so long as that Constitution or rule does not violate the law of the land in which the Church exists. The Church can impose upon itself restrictions in making changes in its Constitution or its

## GENERAL CONFERENCE DECISIONS.

rules, and these restrictions are binding. The inquiry then is: Do the Colorado proposed amendments contain anything in violation of any restriction found in the Constitution of the Methodist Episcopal Church? A careful investigation of all the restrictive rules discloses that none of them prohibit any change proposed in these amendments, and they are therefore constitutional. (*Journal, 1916.*)

## ADDENDUM.

### DEACONESS BOARD.

**The General Deaconess Board has general supervision of all Deaconess work.**

Your Committee on Judiciary, to which was referred the resolution adopted by the Executive Committee of the Methodist Deaconess Association at its meeting in Cincinnati, Ohio, April 8, 1912, asking that the General Conference, through its Judiciary Committee, "define the proper method for the transfer of a deaconess," reports as follows:

The question, in the opinion of the Committee on Judiciary, asks the Committee to assume functions which it does not possess. The Committee on Judiciary cannot legislate. That must be done by the General Conference itself, or through properly organized boards.

The Committee on Judiciary may suggest, however, that under paragraph 217, section 4, of the Discipline of 1908, the General Deaconess Board has general supervision of all

## GENERAL CONFERENCE DECISIONS.

deaconess work throughout the Church, and may approve general rules for the government of all deaconesses, however maintained or employed. Under the broad authority there given, this Committee is of the opinion that it is within the province of said General Deaconess Board to approve the method for the transfer of a deaconess; and this, so far as this Committee is informed, has not been done. (*Journal, 1912.*)

## REPORT No. 25.

### RULINGS OF THE BISHOPS.

Your Committee on Judiciary respectfully reports that the rulings of the Bishops, as submitted to said Committee by the secretary of the Board of Bishops, and referred to your Committee by the General Conference, and hereto appended, are approved, with the exception of the rulings hereinafter mentioned.

#### RULINGS, NOVEMBER, 1908.

*Commission on Boundaries.* (Rulings 23, 24.)

44. November, 1908. A mission has no authority, under the law of the Church (Discipline, ¶ 451) to appoint a commission to act jointly with the commission of an Annual Conference to determine the boundary line between said Conference and said mission.

*Membership Gained By Fraud.* (Ruling 52.)

45. November, 1908. (1) Whenever a

## GENERAL CONFERENCE DECISIONS.

minister is received into its membership by an Annual Conference he retains that membership until it has been ended by due process of law or other Disciplinary process.

(2) If, after a minister has been received into its membership by an Annual Conference, there be allegation of fraud connected with his admission the validity of his membership must be judicially determined.

### *Secretary's Custody of Parchments.* (Ruling 76.)

46. November, 1908. The secretary of an Annual Conference is its official servant and cannot give up Credentials of Ordination placed in his custody after the expulsion of a minister (either traveling or local) until ordered so to do by the Annual Conference.

### *Bishops and Pastoral Supply.* (Ruling 113, Revised.)

47. November, 1908. No Bishop shall be at liberty to make suggestions for the pastoral supply of a Church not at the time under his jurisdiction, except it be done through the Bishop having episcopal charge of such Church.



## RULINGS OF THE BISHOPS.

### *Investigation of Supernumerary or Superannuated Preachers.* (Rulings, 205-207.)

48. November, 1908. "A Supernumerary or Retired minister residing without the bounds of his own Conference," in case of an investigation is subject to the authority of the District Superintendent of the district within which he resides, to the extent of the preliminary investigation provided for in the Discipline, ¶ 232, §§ 1 and 4, and the records of the investigation are to be transmitted to his own Conference.

### *Minister Living Apart from His Wife.*

49. November, 1908. Every minister whose character has been passed by his Annual Conference is entitled to an appointment by the Bishop presiding; but in case the minister be living apart from his wife, by his own volition or consent, it is highly inexpedient to appoint him to the position of District Superintendent, or to give him any other important or conspicuous appointment.

### *Appointment of Missionaries.* (Ruling 295.)

50. November, 1908. (1) The power of appointment which is lodged in the epis-

## GENERAL CONFERENCE DECISIONS.

curacy applies to all missionaries who are ministers, and no one can legally interfere with the exercise of this power by the Bishop in charge.

(2) The Board of Foreign Missions is authorized to pass upon the physical, intellectual, and moral fitness of one it is willing to support as a missionary, but no minister can be assigned to a mission field or appointed to a pastoral charge or other work therein by anyone except the Bishop in charge; and no minister can be taken legally from an appointment given to him by a Bishop for any service in a mission field without the consent of the Bishop in charge.

### *Restoration of Expelled Preachers.*

(Ruling 223.)

51. May, 1909. A member of an Annual Conference, who has been expelled from its membership, cannot be received as a member of the Church nor have any right to the ordinances of the Church until the Annual Conference has accepted as satisfactory his contrition and amendment. His reception by a local Church without such formal action upon the part of the Annual Conference is without justifi-

## RULINGS OF THE BISHOPS.

cation and membership so secured is null and void.

### *Supernumerary Preacher, Conference Claimant.* (Ruling 260, Item 2.)

52. May, 1909. Supernumerary preachers being members of Annual Conferences may become Conference claimants upon vote of their Conferences, the claims granted to be paid out of the necessitous fund, or fund for immediate distribution.

### *Consecration of Bishop of Another Church.*

53. May, 1909. The question having been raised as to the consecration of Bishops-elect for other Churches, it was agreed that the Bishops of the Methodist Episcopal Church are not at liberty to ordain Bishops for any other Church, in the absence of authority from the General Conference.

### *Rules of Administration Obligatory.*

54. May, 1909. The question being asked, What is the measure of our obligation to follow the rules of administration as agreed upon? the answer is given: It is our opinion that the

## GENERAL CONFERENCE DECISIONS.

Bishops are all under moral obligation to follow the rules of administration as agreed upon.

### *"Combined Financial System."* (Discipline, ¶ 103.)

55. May, 1909. (1) The Quarterly Conference may withdraw its authority from the official board, and revise or reverse any action taken by it except the adoption of a "combined financial system."

(2) Where the official board has not been organized, or where it fails to adopt a "combined financial plan," the Quarterly Conference has authority to require the Board of Stewards to carry out the Disciplinary plan, ¶¶ 293-300.

### *Reappointment of District Superintendent.* (Ruling 104, Item 3.)

56. May, 1909. It is our opinion that ¶ 194, § 3, Item 2, means that a District Superintendent may not be continued on the same district more than six years consecutively, nor on the same district more than six years in any consecutive twelve years.

It is our opinion, also, that a District Superintendent should not be appointed to another

## RULINGS OF THE BISHOPS.

district at the end of a six-years' term on one district, unless, as stated in "Rulings and Decisions," (104) (3), his "nonreappointment would be a serious detriment to the work"; and that the words "serious detriment" should be taken to indicate some remarkably exceptional circumstances in the work itself.

### *Soliciting a Call to a Church.*

57. May, 1909. A District Superintendent who advises a preacher on his district to solicit and secure a formal call to some Church, as a condition precedent to promising him an appointment, is guilty of grave un-Methodistic conduct.

58. (See action of Committee below.)

### *Commission on Boundaries.* (Discipline, ¶451.)

59. May, 1909. (1) There is no Disciplinary provision for a joint commission on boundaries between an Annual Conference and a mission.

(2) A legally appointed commission on boundaries has no Disciplinary authority to lift a boundary line and thereby unite two Annual Conferences.

## GENERAL CONFERENCE DECISIONS.

### *Deaconesses and the Pastorate.*

60. November, 1909. A deaconess cannot lawfully be appointed to serve as a pastor of a Church.

### *Church Insurance Officers Ineligible to Episcopal Appointment.* (Discipline, ¶ 194, 3.)

61. November, 1909. A church insurance company cannot be considered a "Benevolent Agency," hence we are not at liberty, under the provisions of the Discipline, to appoint members of Annual Conferences as agents or officers of such companies.

### *Official Reproof May Not Be Required of a Presiding Bishop.*

61. November, 1909. When an Annual Conference finds that a member has been guilty of high imprudence and unministerial conduct, and subjects the offender to a reproof, there is no law by which the Annual Conference or the Select Number may require the Bishop presiding to administer the reproof for the Annual Conference.

### *Suspension—Duration of.*

63. November, 1909. The question being

## RULINGS OF THE BISHOPS.

raised if the sentence of suspension can extend beyond the next succeeding session of the Annual Conference imposing the sentence, the answer is, that when the suspension is conditioned upon certain requirements it may be extended until the requirements be met.

### *Elder-Ordination Under Seminary Rule.*

(Discipline, ¶ 170, § 3.)

64. November, 1909. When a preacher who is admitted on trial, ordained deacon and placed in the studies of the third year under the seminary rule, is continued on trial and advanced to the studies of the fourth year at the succeeding session, at the session next thereafter he may be admitted into full membership and ordained an elder, being thus graduated from the course of study at the end of his second year on trial.

### *Commission on Boundaries—Tenure of*

65. November, 1909. A commission raised by an Annual Conference on the readjustment of boundaries does not need to be reappointed from session to session, but should report to each annual session of the Conference until such commission shall be discharged.

## GENERAL CONFERENCE DECISIONS.

*"Conference," Meaning of in Discipline, ¶ 451.*  
(Later Ruling 60.)

66. November, 1909. The term "Conference" in the first line of ¶ 451 includes both Annual and Mission Conferences.

### *Preachers—Only Three Classes.*

67. November, 1909. (1) The Discipline recognizes but three classes of preachers: Effective, Supernumerary, Retired.

(2) All the years that a member of an Annual Conference spends in the effective relation are all to be counted in making up the record of ministerial service.

### *Missionary Appropriation Not Transferable.*

68. November, 1909. In our judgment, it is not lawful for a District Superintendent to transfer part of the missionary appropriation from one charge to another during the Conference year, either with or without the consent of the Bishop in charge.

### *Admission of Preacher On Trial.* (Later Ruling 4.)

69. November, 1909. It is our judgment



## RULINGS OF THE BISHOPS.

that the provision of ¶ 152 of the Discipline necessitates unbroken service for two successive years as a condition of admission into full membership in the Annual Conference.

### *Transferred Church, Rights of (The Merced Case.)*

70. November, 1909. A church building at Merced, within the territory of the California Conference, was sold, and the money so received was invested elsewhere, as it was supposed that the Methodist Episcopal Church would not re-enter the town in which said church had been located. Before the expiration of the five years allowed by the provision of the Discipline the territory was transferred to the Southern California Conference. The trustees of the latter Conference requested that the proceeds from the sale of the Merced property be given to the Southern California Conference for use in the town which had been previously abandoned. The question being raised as to the claim of the Southern California Conference, it is given as our opinion that the Southern California Conference has the right to the proceeds of the sale of the property in question.

## GENERAL CONFERENCE DECISIONS.

*Probationary Membership Imperative.* (Discipline, ¶ 48, § 3; ¶ 53.)

71. November, 1909. The probationary relation is required as a condition precedent to reception into full membership. The period of probation is no longer of definite length, but the probationary membership is imperative.

72. (See action of Committee below.)

*Divorced Persons—Eligibility to Church Membership.*

73. November, 1909. The question having been raised as to the eligibility of divorced persons, afterward married, for membership in our Church, we answer that the General Conference has not legislated on this subject. There is, therefore, no law for the Bishops to interpret. The pastor must determine what persons are eligible to membership, under the Discipline.

*Restoration of Credentials.*

74. November, 1909. The question of the restoration of credentials may be determined only by the Annual Conference which holds such credentials.

## RULINGS OF THE BISHOPS.

### RULINGS IN MAY, 1910.

#### *"Other Evangelical Churches."*

75. May, 1910. We do not deem it expedient to enumerate the Churches to which the term "Other Evangelical Churches" in ¶ 156 of the Discipline may rightfully be applied. The decision in doubtful cases must remain with the Bishop and the Annual Conference. In general, we would say that only those forms of organized Christianity should be recognized as Churches which, by reason of their history, their organization, their Christian work, the number of their adherents, the requirements for admission to their ministry and orders, clearly have such standing. The term "Evangelical Churches" is applicable to Churches that adhere to the fundamental doctrines of evangelical Christianity, as declared in the basal declaration of the Federated Churches of Christ in America.

#### *Surrender of Parchments.* (Ruling 176.)

76. May, 1910. An ordained local preacher desiring, for any reason, to surrender his credentials, should surrender them to the Secretary of the Annual Conference within which he holds his Quarterly Conference relation.

## GENERAL CONFERENCE DECISIONS.

### *Orders of a "Discontinued" Probationer.*

77. May, 1910. The specific rule under which a preacher on trial is elected and ordained a deacon does not affect the validity of his orders in case of the termination of his relation to the Annual Conference. If he retains his membership in the Church, he has the standing of an ordained local preacher.

### *Equitable Balance in Transfers.*

78. May, 1910. In the matter of transfers we deem it a safe and just rule to preserve, as far as possible, an equitable balance in transfers into and out of a Conference; but we recognize the possibility of conditions which will justify the transferring of a preacher into an Annual Conference without an equivalent transfer from it.

### *Minister Married to Divorced Woman.*

79. May, 1910. The case was presented of a minister married to a woman who had been divorced. The court record in the case does not show that the divorce was secured on scriptural grounds, though the woman claims that there is such a warrant for her action. The question, "Should the minister so married be appointed

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a District Superintendent?" being raised, it is answered: In view of the court record, a minister under such conditions should not be appointed District Superintendent.

### *Judicial Decisions Operative.*

80. May, 1910. Judicial decisions of the General Conference become operative at the close of the General Conference which takes such action, even though such decisions be not printed in the Discipline.

### *Prorating Moneys for Ministerial Support.*

81. May, 1910. It is our opinion that the law of the Church in regard to the pro rata division of the amounts raised for Ministerial Support is binding, and it is incumbent upon the pastors and District Superintendents to see that the pro rata division be made.

### *Collections in Sunday Schools.*

82. May, 1910. The taking of a missionary collection at least one Sunday in each month is mandatory. The question of taking an additional collection for current expenses is to be decided by the local Sunday School Board.

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### *Furloughed Missionary, His Employment and Support.*

83. May, 1910. The fact that a minister of a Foreign Mission Conference is in America on furlough constitutes no obligation for his employment by a Bishop or by a District Superintendent; and the matter of his support is one for which his Annual Conference and the Board of Foreign Missions should provide.

### *Italian Mission—Supervision Thereof.*

84. May, 1910. 1. All the functions of the District Superintendency inhere in the Superintendency of a Mission in which there is but one district.

2. By the action of the General Conference constituting the Italian Mission, all the Italian work within the bounds of said Mission comes under the jurisdiction of the Italian Mission. While the responsibility for the official supervision of organized Italian work is exclusively with the Superintendent of the Italian Mission, yet in this, as in the other Church interests, it is important to have the hearty co-operation of all concerned in the progress of the work.

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### *Apportionment by Board of Conference Claimants.*

85. May, 1910. The question is raised as to the right of the Board of Conference Claimants to apportion to each charge an amount equal to one per cent of the pastor's salary . . . "for connectional relief, in addition to the collections ordered by the Book of Discipline." The answer is, The Discipline does not give any such authority to the Board of Conference Claimants.

### *Amendments to Rules of Bishops' Conference.*

86. May, 1910. At the Bishops' Conference, following the first call for communications and miscellaneous business, under Rule IX, Items 2 and 3, the review of administration, as provided for in Item 4, shall be taken up and shall proceed until finished, without interjection of other business.

Miscellaneous business, requiring urgency (Item 3) may be introduced on motion at any time when other questions are not before the Conference.

Following Item 4, of Rule IX, there shall be inserted a new item, termed "Pastoral Supply," under which call each Bishop shall give

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information concerning vacancies and changes in pastoral supply which may involve transfer.

(There appears to be no ¶ 87.)

### RULINGS IN NOVEMBER, 1910.

*Annual Conference Quorum.* (Ruling 18.)

88. November, 1910. An Annual Conference is not a self-constituted organization, but is a body created for certain specific purposes and has no power to establish any definite or proportionate number as a quorum for the transaction of the business of the Conference.

*Restoration to Annual Conference Membership.*

89. November, 1910. If a member of an Annual Conference, in good standing, has withdrawn from the ministry and membership of the Methodist Episcopal Church, he cannot be restored to membership in an Annual Conference unless he has reunited with the Church, and has been duly recommended to an Annual Conference for membership therein.

*Withdrawal by Consent.* (Ruling 59.)

90. November, 1910. A member of an Annual Conference, with the consent of the Conference, may withdraw his membership from



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the Conference. In such case the Annual Conference may consider the circumstances connected with the withdrawal, and determine whether the entry against his name shall be "Withdrawn," or "Withdrawn under charges."

*Conference Evangelists.* (Rulings 125, 126.)

91. November, 1910. The Discipline of the Church (§ 194) says: "The Bishop, if requested by an Annual Conference, may appoint one or more members of an Annual Conference to do evangelistic work within that Conference." etc. In view of this law a Conference evangelist can act as such only within his own Annual Conference for which he has been appointed. The ruling conflicting with this shall be modified accordingly.

### *Rights in Parsonage Property.*

92. November, 1910. Where several Churches on a pastoral charge join in contributing for the purchase or erection of a parsonage for the charge, each of the several Churches so contributing has an equitable claim in the parsonage property. If a Church is set off from the pastoral charge, it retains its claim. If all the Churches on the pastoral charge cease to

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exist, with the exception of one, the claims of all the extinct Churches shall be vested in the one remaining Church. If another Church is placed on the circuit or pastoral charge with said remaining Church, the new Church does not thereby secure an equity in said parsonage property, but the claim and right thereto continues in the surviving member or members of the original pastoral charge that secured the parsonage.

### *Parsonage Property—Transfer of.*

93. November, 1910. Where two Churches are combined into one pastoral charge, and only one of the Churches is the owner of parsonage property, the trustees of the Church owning the parsonage, or the trustees holding the parsonage, if the law permit, may transfer said property to the other Church or to a Board of Trustees created to hold the same for both Churches.

## RULINGS IN MAY, 1911.

### *Two Charges Served by Same Pastor.*

94. May, 1911. When two pastoral charges, supplied for the time being by the same preacher, retain their separate organization,

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each pastoral charge is entitled to elect its own delegate to the Lay Electoral Conference.

95. (See action of Committee below.)

### *Elder Under Local Preacher's Rule.*

96. May, 1911. A preacher who has been a member of an Annual Conference one year cannot be elected to elder's orders under the Local Preachers' Rule, although this year makes it four years since he became a local deacon. He has ceased to be a local preacher.

### *Appointment to Detached Service.*

97. May, 1911. If a Bishop, believing that the Annual Conference has made the required request, appoints a preacher to a detached service, even should it develop that the required request had not been made, the appointment would be valid. A properly qualified person made such appointment in good faith.

### *Estimate of Support by District Stewards.*

98. May, 1911. The district stewards, after estimating the amount necessary to furnish a comfortable support for a District Superintendent, are required to apportion that amount "among the different pastoral charges in the dis-

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trict, according to their several ability." In determining the ability of a pastoral charge in which the pastor is aided by a missionary appropriation, the district stewards in no case should take into account such missionary appropriation.

### *Conference Membership if Not Continuous.*

99. May, 1911. The annuity of a preacher whose Annual Conference membership has not been continuous should be based upon his years of effective service in an Annual Conference.

### *Estimate for Each Conference Claimant.*

100. May, 1911. A Quarterly Conference is required to send to the Annual Conference an estimate of the amount necessary to provide a comfortable support for each Conference claimant residing within the bounds of the pastoral charge.

### *Quarterly Conference and Conference Claimant.*

101. May, 1911. The estimate of the amount necessary for the comfortable support of a Conference claimant by a Quarterly Conference, certified by its president and secretary,

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and sent to the secretary of the Annual Conference, is declared to be for the information of the Board of Stewards, and the Discipline does not indicate that such action indorses such Conference claimant's Christian and ministerial character.

### *Board of Conference Claimants, a Benevolent Board.*

102. May, 1911. Discipline, Part VIII, Chapter IX, plainly gives to the Board of Conference Claimants a like place and equal standing and authority with the other "Benevolent Boards"; and money contributed to the Connectional Fund and the Permanent Fund of this Board should always be reported to the Annual Conference, included by its statistician in "Statistics No. 4," and paid by its treasurer to the treasurer of the Board of Conference Claimants.

### *Sunday School Superintendent, Term of Service.*

103. May, 1911. A Quarterly Conference is not authorized to instruct a Sunday School Board that a person shall not be elected superintendent who has been in that office five years.

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### RULINGS IN NOVEMBER, 1911.

#### *Missionary Training Schools and Patronizing Conferences.*

104. November, 1911. In the case of missionary training schools, which are departments in deaconess institutions, the question has been raised whether there is a limit to the field from which such schools may secure students. The following action is recommended: In view of the relation of such schools to the deaconess work, it is agreed that the question of their patronizing fields should come before the General Conference in connection with the deaconess work. Adopted.

#### *Relicensing of an Expelled Preacher.*

105. November, 1911. (a) The question is raised: "If a member of an Annual Conference, after due trial, has been expelled from the ministry, but not from Church membership, may the Quarterly Conference relicense him to preach without consent of the Annual Conference that expelled him?"

*Answer:* A member of an Annual Conference, who after due trial, has been expelled from the ministry, but not from Church membership, has all the privileges of the Church member.

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(b) "If a member of an Annual Conference, after due trial on charges affecting his moral fitness for the ministry, has been expelled from the Annual Conference and from the ministry, be relicensed by a Quarterly Conference, before any confession or expression of contrition has been made to the Annual Conference, can the Annual Conference validate such an illegal procedure by affording to him the status of a local preacher, entitled to ask for the return of his credentials?"

*Answer:* The recognition of a local preacher by restoring his credentials is a matter to be determined by the Annual Conference to which he applies for recognition.

(c) "Is there any difference between the legal status of a minister located upon his own request, seeking readmission to an Annual Conference on his credentials and certificate of location, and an expelled member whose credentials have been restored without reference to the question of readmission? Credentials having been restored in such a case, can the expelled man be readmitted without a probation period?"

*Answer:* A preacher who has been located upon his own request may be readmitted by direct vote of an Annual Conference; but a

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preacher who has been expelled from the ministry, but not from the membership of the Church, and has been relicensed as a local preacher, can only be received into an Annual Conference on trial, after being recommended by a Quarterly Conference.

### *The Legality of Transfer in the Case of Effective Men Employed by District Superintendents in Another Conference.*

106. November, 1911. The Colorado Conference submitted the following statement and request:

“Whereas, During the past year, one or more of the District Superintendents have employed effective members of other Annual Conferences, who were later transferred to this Conference, without this Conference having any voice in the matter; and,

“Whereas, This action is in direct violation of the Discipline, ¶¶ 164 and 239; therefore, be it

“RESOLVED, That Bishop Warren be requested to declare all such employment and transfers illegal, and that he take up these cases with the other Bishops concerned and request the retransfer of these men to the Annual Conferences from which they came.”



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In reply to the foregoing, it is our judgment that the Annual Conference has no voice in this matter, and this action is not in any way related to or covered by the paragraphs referred to. We regard the matter of such transfers as already covered by a rule previously adopted by the Board of Bishops.

### *Nominal Appointments and Claims on the Annuity Fund.*

107. November, 1911. "Are ministers who have filled nominal appointments without service rendered or salary received entitled to count such years as effective in reckoning annuity due them?"

*Answer:* Yes, if they have remained *effective* in the Disciplinary sense.

### *Withdrawal a Forfeiture of Claim on Conference Funds.*

108. November, 1911. "If a member of an Annual Conference leaves the ministry and membership of the Methodist Episcopal Church, does this withdrawal work a forfeiture of all claims on the annuity and necessitous funds of the Methodist Episcopal Church?"

*Answer:* Yes.

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### *Readmission and Its Effect Upon Claims on Conference Funds.*

109. November, 1911. "If years later he is readmitted into the membership and ministry of the Methodist Episcopal Church, does such readmission restore the rights previously forfeited and entitle him to count those years as effective when the question of annuity is being considered, and does the claim date from the time of readmission?"

*Answer:* Readmission to the membership of the Annual Conference entitles the preacher thus readmitted to count the years of effective service prior to his withdrawal, as well as subsequent to his readmission, as the basis of claims upon annuitant funds.

### *Satisfactory Credentials From Other Churches.*

110. November, 1911. In receiving a minister from another evangelical Church there should be satisfactory evidence of good standing in the ministry at the time. In Churches which publish a list of ministers, the latest published list should be presented with a letter of dismissal, where Churches issue such letters. In case there should be no published list, or any letter of dismissal, the applicant should present

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the indorsement of the Quarterly or District Conference acquainted with him.

*Have the Examining Boards of Missions Final Authority in the Advance of Under-graduates?*

111. November, 1911. As to the question of competency of the examining committee of a mission to examine an undergraduate who belongs to a remote Annual Conference, it is agreed that the Annual Conference must determine the educational qualifications of its undergraduates.

*The Publication of the Bishops' Rulings.*

112. November, 1911. It is recommended to the General Conference that where rulings of the Bishops respecting cases frequently recurring, or for any reason of general interest are approved by the General Conference, such rulings be printed in the Appendix of the Discipline.

## RULINGS MODIFIED OR NOT APPROVED.

*The first sentence of Ruling No. 53, which reads as follows, to wit:*

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*“Mortgaging Church Property.”* (Ruling 170, Discipline, ¶ 326.)

58. May, 1909. “The Discipline plainly forbids any mortgage on Church property for the purpose of securing funds for the current expenses of the Church,” is *approved* by the Committee.

*The second sentence of Ruling No. 58, which reads as follows: “It is our opinion, also, that the trustees cannot give a note or other instrument for the sake of securing current expense funds where the civil law would hold the Church property for the debt so made,” is disapproved* by the Committee because the giving of a note or other instrument for the sake of securing current expense funds does not of itself constitute an incumbrance, and only becomes such when judgment has been obtained thereon.

*Ruling No. 72, which reads as follows:*

*“Triers of Appeals in Excess of Disciplinary Number.”* (Discipline, ¶ 278.)

72. November, 1909. “Where the Judicial Conference is called and it appears that in any one of the Conferences from which Triers of Appeals have been selected, a number exceed-

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ing that allowed by the Discipline has been chosen, should the Judicial Conference on that account be dissolved? We answer: that it is our opinion that the fact of an Annual Conference having inadvertently appointed more than the Disciplinary number of Triers of Appeals should not lead to the dissolving of the Judicial Conference; but the last-named Triers of Appeals from any Annual Conference, over and above the Disciplinary number allowed should be dropped," is *disapproved* because the Triers of Appeals were never legally elected. If a law provides for the election of five persons, and a ballot is voted which contains six names, the ballot must be rejected, and there is no election.

### *Elder Under Seminary Rule.*

95. May, 1911. "An Annual Conference is not authorized to elect a preacher to elder's orders under the Seminary Rule one year after his election to deacon's orders under said rule, although he may have complied with all the requirements in the Discipline, ¶ 170, § 3," in the opinion of the Committee on Judiciary should be modified by inserting the word "other" before the word "requirements." (*Journal*, 1912.)

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### **The Rulings of the Bishops and action of the General Conference thereon.**

Your Committee on Judiciary respectfully reports that the Rulings of the Bishops, as submitted to said Committee by the secretary of the Board of Bishops, in pursuance of authority so to do, conferred on him by the General Conference, are hereto appended with our rulings thereon:

### **Lay Electoral Conference and Laymen's Association.**

114. November, 1912. The Lay Electoral Conference and the Laymen's Association are separate and distinct bodies and the one cannot take the place of the other. Approved.

### **Laymen's Association—Time of Meeting.**

115. November, 1912. The Laymen's Association, if it meet, must do so at the place and during the session of the Annual Conference. Approved.

### **Episcopal administration in Mexico.**

116. November, 1912. ¶¶ 542 and 543 of the Discipline of 1912 are applicable only to Annual Conferences in the United States of

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America; therefore, the Mexico Annual Conference should be administered as heretofore. Approved.

### **Examination in Course of Study.**

117. November, 1912. After July 1, 1913, all Conferences must follow the new Course of Study, and this only. Approved.

### **Term of office of District Superintendents.**

118. November, 1912. ¶ 203, § 2, of the Discipline of 1912, provides that District Superintendents in either Missions or Mission Conferences in foreign lands may be appointed to the same district for more than six consecutive years, but the limitation of the term of a District Superintendent in an Annual Conference is of force in all Annual Conferences, whether in the home or the foreign field. Approved.

### **Submission of proposed amendment for Bishops for Races and Languages.**

119. November, 1912. The General Conference, by 520 votes out of a total of 565, favored the amendment of the Constitution so as to authorize the election of Bishops for Races

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and Languages, and in view of this action, the Bishops should submit the aforesaid proposed amendment to the Annual and Lay Electoral Conferences at the session immediately preceding the next General Conference. Inasmuch as Rule 119 was rescinded by the Bishops in May, 1915, we find it unnecessary to pass thereon.

### **Abandoned Church property on circuits.**

120. November, 1912. In the case of abandoned Church property on a circuit, the proceeds of its sale having been given to the Annual Conference, as provided in the Discipline, and five years having elapsed without the resuscitation of the society, may be divided among the societies on the circuit, as determined by the Annual Conference to which the society belonged. Approved.

### **Basis of claim of Conference claimants.**

121. November, 1912. The claim of a Conference claimant is determined upon the basis set forth in ¶¶ 331 and 333 of the Discipline of 1912, and it is to be estimated invariably upon that basis, but the apportionment for the purpose of securing this claim, in whole or in



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part, is at the discretion of the Annual Conference, as provided in ¶ 326. Approved.

### **Licensing of local preachers of the Italian Mission.**

122. November, 1912. In the administration of the Italian Mission in the matter of licensing local preachers, or the renewal of licenses of local preachers and exhorters by the Mission, the examination in the course of study may be by the Quarterly Conference to which the candidate is formally related, and the representation usually made in person may be by correspondence. Approved.

### **Distribution of Book of Rulings.**

123. May, 1913. In response to the request from certain District Superintendents for the book of rulings of the Bishops, the answer is returned that there is no fund available for the printing of such an edition as would be necessary to supply all District Superintendents, which would have to be done if those in any one section were so supplied. Any District Superintendent may consult the decisions which have been passed upon by the General Conference, and which have been printed in the Journal and in the Daily Christian Advocate. Approved.

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### **Rulings of Bishops upon Church law in the General Conference.**

124. May, 1913. The Bishops of the Methodist Episcopal Church have pronounced upon the constitutionality of measures presented to and passed upon by the General Conference, and have announced their opinion to that body as a matter of constitutional right, but the Board of Bishops has never felt free to pass upon a proposed amendment to the Constitution, especially before it reached the General Conference, or before it was presented in an Annual Conference.

While this ruling may be true as a statement of facts, in its implications it is seriously misleading. What is meant by the words, "measures presented to and passed upon by the General Conference," is not stated. If it is intended to assert that the Board of Bishops, or any individual Bishop, should hold, if and when a matter is properly brought before them or him for a decision, that a legislative act of the General Conference fails if antagonistic to the Constitution, and the question has never been judicially decided by the General Conference, then the assertion is well founded. But if it is intended to assert that the Board of Bishops

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may refuse to follow decisions of the General Conference in matters presented to it, when sitting as the final judicial tribunal of the Church, then the assertion is revolutionary and ill-founded.

The Constitution is unquestionably the supreme law of the Church; but, like every other law, it must, in case of dispute, be interpreted by some one. Who in our Church is to interpret it? In the first instance, of course, that member or official who is claiming a right under it. But the matter does not end there. The assertion that an action of the General Conference violates the Constitution, raises a question of law; and from the earliest days until now the ultimate judicial tribunal of the Church to decide questions of law has been and is the General Conference. For any violation of the law of the Church, the offender, whether of high or low degree, is subject to such ecclesiastical punishment as the General Conference may have provided therefor before the commission of the offense. Inasmuch, therefore, as the General Conference is the ultimate legislative authority to declare the law of the Church and is the ultimate judicial authority within the Church to determine whether or not

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that law has been violated and to punish the offender if it has been, it necessarily follows that its unreversed judicial decision that a law is constitutional, is binding upon everybody connected with the Church from the highest to the lowest, until and unless that decision shall have been overturned by the civil courts upon a case brought before them for adjudication. Any other conclusion would be chaotic; for if each person connected with the Church may decide for himself whether or not a judicial decision of the General Conference upon a constitutional question is correct, then every member may override every act of the General Conference and every judicial decision made by it, and its judicial powers are wholly destroyed. Under such circumstances the Church would not be an organization, but a body of disunited men held together by nothing more substantial than a rope of sand.

### **The right of an Annual Conference to reconsider its vote upon a constitutional question.**

125. May, 1913. On a question submitted as to the right of an Annual Conference to reconsider its vote upon a constitutional question, the material facts concerning the action taken

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are not presented, so that we are not free to make a ruling upon the particular question. The general principle, however, has been decided. (See Ruling 21, § 2, October, 1894.)

The ruling in this matter says: "The material facts concerning the action taken are not presented, so that we are not free to make a ruling upon the particular question."

It follows as of course that as there was no decision, there is nothing for the Judiciary Committee to approve or disapprove. We would request, however, that in the future a sufficient statement of the facts be given to enable the Committee to understand the matter in its direct as well as its indirect bearings. Ayes, 16; nays, none.

### **Pro rating of receipts for Ministerial Support.**

126. May, 1913. Upon the subject of pro rating receipts for ministerial support, the legislation of the Church, as recorded in the Book of Discipline, is explicit. The importance of the matter, however, is such as to justify the Bishops in calling the attention of the District Superintendents to the law. Approved.

### **Charges without preliminary private reproof.**

127. May, 1913. In the case of charges

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by a pastor or private member of the Church against another member of the Church, if the charge is for a violation of the "moral law," no preliminary reproof is necessary, but in case the matter falls under the head of "imprudent conduct," it is necessary on the first and second offenses that "private reproof" be given. On the third offense, the preliminary reproof is not required. Approved.

### **Election of Sunday school teachers at Annual Meeting.**

128. May, 1913. As ¶ 465, § 3, of the Book of Discipline of 1912, provides that teachers shall be elected annually by the local Sunday School Board, it would seem that the annual meeting should be regarded as the proper time for such election. Approved.

### **Authority of a Trustee duly elected but not confirmed by the Quarterly Conference.**

129. May, 1913. A trustee legally elected, according to the law of the State, but not confirmed as a member of the Quarterly Conference, cannot sit as a member of the Quarterly Conference and cannot be a member of the Offi-

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cial Board, which is made up of the members of the Quarterly Conference. Under such circumstances, however, it is not necessary for the Quarterly Conference to separate the Board of Trustees from the Official Board, but the said trustee can meet with the Board of Trustees when it is legally necessary for the Board to transact certain business by itself. Approved.

### **Relation of assistant secretaries, treasurers, and librarians to the Sunday School Board.**

130. May, 1913. ¶ 565, § 1, Art III, of the Discipline of 1912, includes as members of the Sunday School Board "duly elected secretaries, treasurer, and librarians." The word "treasurer" is single, so that it is plain that only one treasurer can be a member of the local Sunday School Board. The law does not specify assistant secretaries or assistant librarians, therefore, it contemplates full secretaries and full librarians only. Approved.

### **"The System of Christian Doctrine."**

131. May, 1913. In the Conference course of study, the book entitled *The System of Christian Doctrine* was formerly in the Course of Study for the second year, while it is now di-

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vided between the third and fourth years. A question is raised as to credits to be given for this book to preachers now in the studies of the third and fourth years, and it is answered, if such preachers have already been passed by the Board of Examiners on this book, the previous credits may be counted. Approved.

### **The Federation of Methodist Churches with those of other denominations.**

132. May, 1913. There is no law in the Book of Discipline which authorizes the blending or federation of a Methodist Episcopal Church with a Church of another denomination so as to destroy the identity of the said Methodist Episcopal Church; therefore, no society of the Methodist Episcopal Church can take itself and its property out of the Methodist Episcopal Church by a so-called federation with another denomination. It continues to be a Methodist Episcopal Church in organization and obligation, and it is the duty of the District Superintendent to continue his supervision thereof, to hold Quarterly Conferences, and to discharge all other duties which under the law and usages of the Church pertain to his office. Approved.



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**An Annual Conference cannot excuse from examination in the Course of Study.**

133. May, 1913. The Annual Conference cannot excuse a preacher on trial from the legally prescribed Conference course of study or admit him into full membership without satisfactory examination upon such course of study. (See Ruling 46, November, 1893.) Approved.

**The right of an Annual Conference to the custody of credentials.**

134. May, 1903. In view of the law of the Church and the agreement entered into by the individual minister with the Church, the Annual Conference becomes the legal custodian of ministerial credentials when a party withdraws or ceases to be a minister, and the Conference can therefore legally demand the return of such credentials to itself. Approved.

**The employment of Evangelists.**

135. May, 1913. The employment of preachers as evangelists seems to be sufficiently covered by the present law and usage of the Church, and particularly by the provision of ¶ 181 of the Discipline. The responsibility for

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the employment of evangelists, or other persons purposing to help in evangelistic meetings, is with the pastor of the charge and the District Superintendent. Approved.

### **The validity of ¶ 186, § 3, of the Discipline of 1912.**

136. May, 1913. (a) As no amendment was made to the law previously in force by the General Conference of 1912, and no amendment to the law was even proposed, the law should stand as it appeared in the Book of Discipline of 1908, notwithstanding the error in the Discipline of 1912. (b) A standing committee is hereby created to note errors in the Discipline and report the same to the ensuing Bishops' Conference. Other Bishops shall call the attention of this committee to supposed errors in the printed Discipline. Approved.

### **Introductions to the Annual Conferences.**

137. May, 1913. Bishops should not on their own initiative present to the Annual Conferences over which they preside persons representing causes other than those recognized by the Discipline of the Church. Approved.

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### **Special appointments.**

138. May, 1913. Bishops should strictly construe the law in regard to special appointments of members of an Annual Conference and should make no special appointment that is not clearly authorized according to the Book of Discipline. Where a Bishop has made an appointment and subsequently is convinced that such appointment is not clearly authorized, he should correct it at the earliest moment he can do so with propriety. Approved.

### **Proceeds from the sale of abandoned churches.**

139. May, 1913. When abandoned churches have been sold and the proceeds have been placed in the custody of the Annual Conference, it is within the power of the Annual Conference to vote that the proceeds be used for the benefit of the charges from which the churches were sold, but the Annual Conference should carefully safeguard the proceeds in every particular, according to the terms of the law. Approved.

### **The Biblical Institute in Jerusalem.**

140. May, 1913. The work in connection with the Bishop Newman Biblical Institute in

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the city of Jerusalem is properly under the episcopal oversight of Bishop Nuelsen, resident in Zurich. Approved.

### **Tenure of office of District Superintendents.**

141. October, 1913. The ruling adopted November, 1912 (No. 118), respecting the tenure of office of District Superintendents in foreign fields, is recalled. Approved.

### **Concerning the Trinity-Marie Case — Rights of Trustees.**

142. October, 1913. The trustees of Trinity Church, Chicago, like all trustees of Methodist Episcopal Church property, hold said trusteeship under the laws of the Methodist Episcopal Church. Therefore, the trustees of Trinity Church cannot oust any regularly appointed pastor from the pulpit and parsonage of Trinity Church, nor have they power as trustees to oust any regularly appointed pastor from the pulpit and parsonage of Marie Church. Approved.

### **Nonresident members.**

143. October, 1913. Inasmuch as under the provisions for the report of "full members," the item "nonresident members" refers dis-

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tinety to the Discipline, ¶ 57, it is evident that in the statistical blank, under "nonresident members," there should be reported only those whose addresses cannot be ascertained for one year after faithful search and after whose names on the record the words, "removed without certificate," have been entered. Such "nonresident members" should not be counted in the basis of apportionments nor should they be included in the figures given under "members now on roll." Approved.

### **Language in which the Minutes of the Mexico Conference shall be published.**

144. October, 1913. The question as to the language or languages in which Conference Minutes shall be published is a question of convenience rather than of law. The Bishops see no reason why the Mexico Conference should not be allowed to follow the precedents established by other foreign Conferences. Approved.

### **The Conference Board of Home Missions and Church Extension.**

145. October, 1913. In case an Annual Conference fails to elect a Conference Board of Home Missions and Church Extension, the old

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Board continues to act until successors are regularly elected. The old Board may decide for itself whether it shall hold an election of officers, the old officers holding their places until their successors are elected. In case a member of a Conference Board of Home Missions and Church Extension removes his Church membership from the Conference which appointed him a member of said Board, he forfeits his membership in the Board as well as any office that he may hold therein. Approved.

### **Transfer of Church property from German-speaking to English-speaking Conferences.**

146. October, 1913. It is our opinion that in the absence of any distinct provision by the General Conference the change of the language used in the services of a Church would not act as a transfer of that Church from one Conference to another even where terms relating to language are used in defining boundaries. Approved.

### **Return to Conference membership of a minister withdrawn.**

147. October, 1913. In the case of a minister who has withdrawn from an Annual Con-

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ference, but has not united with another evangelical Church, and who desires to return, it is necessary for him to join the Methodist Episcopal Church on probation; be received into full membership; be licensed as a local preacher; be duly recommended to the Annual Conference; and be received into the Annual Conference on trial. Then it is within the power of the Conference to restore his parchments. The Conference is not at liberty to free him from the two years' membership on trial, but at its discretion, may release him from any part of the Conference Course of Study. Approved.

### **Appeal of expelled minister.**

148. October, 1913. In the case of an expelled member of the Central Alabama Conference, whose appeal to the Judicial Conference has been rejected upon the ground that he had forfeited his right of appeal, and who now appeals to the Bishops of the Methodist Episcopal Church for relief, it is agreed that the Board of Bishops has no jurisdiction in the case. Approved.

### **Appeal of certain local preachers in Columbia River Conference.**

149. October, 1913. In the case of certain

local preachers in the territory of the Columbia River Conference, who were not relicensed because of a ruling by the District Superintendent, sustained by the Bishop presiding, and who now appeal to the Bishops for a reversal of said ruling, it is agreed that the appeal should go, not to the Bishops, but to the General Conference. (See ¶ 304, § 13, of the Discipline.)  
Approved.

**The Colorado Conference and the retirement of preachers.**

150. October, 1913. The Colorado Conference is adopting certain rules governing the retirement of preachers, and desires to know if it would be constitutional to put into effect a provision that preachers shall be retired automatically at a certain age limit. It is answered that "An annual Conference cannot legally put such a requirement into effect." Approved.

**Reception of members from other evangelical Churches.**

151. October, 1913. It is asked if a member of another evangelical Church can be received into the Methodist Episcopal Church by letter without answering the questions which are



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prescribed in Chapter I, ¶ 48, § 4, of the Discipline. It is answered that all persons who seek membership in our Church, whether from probation or by letter from other evangelical Churches, should by answer to the questions prescribed for the reception of (full) members, declare their conformity to our doctrines and Discipline. (See Discipline of 1912, ¶ 48, § 4.) Approved.

### **Reconsideration of motion to restore credentials.**

152. October, 1913. It is asked: "Can an Annual Conference reconsider the vote by which it granted the return of the credentials of a member who had been deposed from its ministry after due trial, but was afterward licensed to preach?" It is answered: "An Annual Conference may reconsider such action, provided the reconsideration takes place during the annual session of the Conference at which the action was taken and before the credentials have been actually returned, but not later." Approved.

### **Committee of inquiry and the right of challenge.**

153. October, 1913. It is our opinion that in the selection of a Committee of Inquiry as distinct from a Committee of Investigation, the

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accused has not the right of challenge. Approved.

### **Procedure in trial by Annual Conference.**

154. October, 1913. In the case of a member of a certain Annual Conference a Committee of Inquiry was appointed. On the report of said Committee, the Conference appointed a Special Committee to formulate charges which were entertained by the Conference. Should the Annual Conference then have proceeded to formal trial? Answer: "The Conference should have proceeded at once to formal trial, unless it was impossible to secure witnesses, in which case the method prescribed in the Discipline, ¶ 256, § 4, should have been followed." Approved.

### **Divorce.**

155. October, 1913. The Bishops have received various inquiries as to the position of the Methodist Episcopal Church on the question of divorce. The utterance of the Church is found in the Discipline, ¶ 67. This section being placed in the Discipline under "Special Advices," and yet being framed in language strictly legal, the question has naturally arisen

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as to whether our statement on divorce is advisory or mandatory. In answer to this question, the Bishops in May, 1905, gave the following ruling: "Discipline, ¶ 67 (On Divorce), is couched in language strictly legal and its location in the chapter on 'Special Advices' does not invalidate or modify its legal character." This ruling of the Bishops was confirmed by the General Conference of 1908 upon the recommendation of the Committee on Judiciary. It thus clearly appears that our Disciplinary pronouncement on divorce is not merely an advice but a law. This being true, the action of any minister in remarrying persons who have been divorced, on any ground "except for adultery" becomes serious, not only because such action may have a relation to the increasing prevalence of divorce in our country, but also because such action is a direct violation of the mandate of the Church.

In addition to this, the matter may have important legal bearings. As Methodist Episcopal ministers are given the right to exercise their ministerial functions only under the laws of the Church, the civil right of our pastors to marry divorced persons, contrary to our Church law, would be in gravest doubt. In reply, there-

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fore, to the various inquiries, we express the opinion that all our pastors are obliged to conform strictly to our law. We do this the more earnestly because we believe that our law represents the word of Christ. It is our conviction that the conformity of our ministers to the action of the General Conference will tend to exalt the marriage relation and to dignify the Church itself as the guardian of the home.

Approved, with the exception of the statement in the last paragraph. It does not seem to us that the civil right of our pastors to marry divorced persons, contrary to Church law, is in grave doubt. The civil right of ministers to marry is derived from the law of the land. If, in performing a marriage, a Methodist minister marry divorced persons, he violates the law of the Church, and may be proceeded against by the Church authorities. A marriage celebrated contrary to Church law, but not in violation of State law, is unquestionably valid.

### **Transfer of a preacher in the Italian Mission.**

156. When a preacher in the Italian Mission shall be duly appointed to work within the bounds of an English-speaking Conference, other than that within the bounds of which he

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has been serving, it shall be understood that without the usual consultation between Bishops, the Bishop in charge shall transfer him to the Conference within the bounds of which his new appointment is located, provided the transfer be for the pastorate of a Church which is in the Italian Mission. Approved.

### **Payment of appropriation to a Conference claimant.**

157. It is within the province of an Annual Conference to direct that the appropriation made for Conference Claimants be paid in quarterly installments rather than that the total amount be paid to the claimant at the beginning of the year. Approved.

### **Recommendation for the admission of persons into full membership.**

158. The law in the Book of Discipline, ¶ 48, § 3, is that no one "be admitted into full membership until he has been recommended by the Official Board of the leaders and stewards' meeting, with the approval of the pastor," etc. The person, therefore, should be duly recommended by the Official Board or the leaders and

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stewards' meeting, and not by a committee of either. Approved.

### **Inquiry into the moral conduct of a member of an Annual Conference.**

159. If the District Superintendent does not institute the investigations provided for by the Discipline, after the matter has been duly called to his attention, any member of the Church in good standing can prefer formal charges. Approved.

### **Student-pastors in institutions of learning.**

160. In all cases of student-pastors and of Churches asking aid from any Church board, it is to be understood that there must be harmony between such student-pastors and such Churches with the administration of the Church. Approved.

The statement of the ground for this ruling is insufficient and obscure. Your Committee does not find enough data on which to render any decision. Therefore, we neither approve nor disapprove of this ruling.

### **Associate membership.**

161. There is no law of the Methodist

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Episcopal Church providing for associate membership therein. Approved.

### **Nonresident members.**

162. *Question:* "Is nonresident membership limited as to time?"

*Answer:* "As the Book of Discipline does not fix such a time, for the Bishops to do so would be assuming legislative functions which do not belong to them." Approved.

### **Notification of transfer.**

163. The law of the Church makes provision for the announcement of the notification of transfers. Approved.

### **Accusation against a District Superintendent.**

164. *Question:* "Can a District Superintendent be brought before another District Superintendent and a committee, as provided for in ¶ 243, § 2, Discipline of 1912, when the senior effective elders referred to have not furnished charges and specifications against the accused, but state only that rumors exist which should be investigated without indicating the nature of said rumors?"

*Answer:* "In our opinion it is the duty of

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said senior ministers to formulate charges and specifications if they deem an investigation necessary, unless such charges have been prepared and signed by others." Approved.

### **Amending a Bill of Charges.**

165. It is asked, "Can a bill of charges be amended on the day of trial or investigation by the addition of matter not relevant to the accusations already known to the accused, without giving the accused sufficient additional time for preparation?"

*Answer:* "A bill of charges cannot be so amended at such time." Approved.

### **Ordination of properly elected ministers during the session of the Italian Mission.**

166. As to the time of ordination, the Bishop has full power to adjust the matter, but it is recommended that whenever practicable the ordination of ministers belonging to the Italian Mission take place during the annual session of that body. Approved.

### **Affiliated membership.**

167. In the schools and colleges under the



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auspices of Methodism the question has arisen whether it is competent for a member of our Church in attendance upon one of our institutions of learning to secure from his pastor a certificate commending him to affiliated membership in one of our Methodist Episcopal Churches in the college community without transfer of membership from the home Church.

*Answer:* "The law of the Methodist Episcopal Church makes no provision for 'associate membership' therein, but we can see no objection to such affiliated membership in the College Church as is contemplated in this question." Approved.

### **Right of appeal forfeited.**

168. *Question:* "A member of the Upper Mississippi Conference was, after trial and conviction, expelled from the ministry and membership of the Church. He appealed, and in hearing before the Judicial Conference the Minutes in the case, it was found that the appellant had disappeared. The case was remanded for a new trial, and the accused was again convicted and expelled. He now again appeals the case. It appears that since his expulsion he has been preaching in other Churches. Has he not, by

## GENERAL CONFERENCE DECISIONS.

this course of action, forfeited his right of appeal?"

*Answer:* "He has forfeited his right of appeal." Approved.

### **Rearrangement of Conferences in Oklahoma City residential area.**

169. November, 1914. Owing to the death of Bishop McIntyre, the Conferences in the Oklahoma City residential area were distributed as follows: To Bishop Shepard, Oklahoma Conference, Southern Swedish Mission, West Texas and Lincoln Conferences; to Bishop Thirkield, the Texas and Southern German Conferences. Approved.

When a Bishop dies, the Bishops should divide his work among the Bishops of the nearest adjoining areas.

### **Membership of retired ministers in Quarterly Conferences.**

170. November, 1914. In regard to the matter of appointing retired ministers to membership in Quarterly Conferences, it is evident that such appointments are violations of the law in the Book of Discipline, which reads: "Every retired minister who is not employed as pastor

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of a charge shall have a seat in the Quarterly Conference and all the privileges of membership in the Church where he resides." (Discipline of 1912, ¶ 184.) Approved.

### **The right of a supernumerary preacher to a share in the Conference Claimants' Fund.**

171. November, 1914. It is plain that under the law and Constitution of the Church a supernumerary preacher has a claim on the Conference Claimants' fund, subject to the action of the Annual Conference, but as a supernumerary preacher he has no claim on the annuity distribution. Modified.

A supernumerary preacher has no claim except by vote of the Annual Conference, and then his claim must be paid out of the necessitous fund. The ruling that a supernumerary preacher has no claim on the annuity distribution is approved.

### **Rearrangement of the Conferences in the Saint Louis residential area.**

172. November, 1914. Owing to the death of Bishop Smith the Conferences of the Saint Louis residential area were distributed as follows: To Bishop McDowell, the Southern Illi-

nois; to Bishop Bristol, the Missouri; to Bishop Shepard, the Saint Louis German and the Central Missouri; to Bishop Thirkield, the Arkansas and Little Rock. Approved.

**Transfer of probationers in an Annual Conference.**

173. November, 1914. A probationer in an Annual Conference, being a preacher subject to appointment, by episcopal authority, is consequently subject to transfer by a Bishop. Approved.

**Irregular transfer not valid.**

174. November, 1914. A question has been raised as to whether a member of an Annual Conference is to be regarded as transferred when he has not been regularly transferred by the Bishops having supervision of the Conferences where he belonged and the other Conference in which he is found serving as pastor of a Church.

We answer that neither preacher, nor District Superintendent, nor both together, can effect a transfer, and though a preacher perform pastoral work in the territory of another Annual Conference without a regular transfer, the

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fact of such service does not act as a transfer, but the minister remains a member of his original Conference and must remain in that membership until the Bishops concerned give their consent and formally make the transfer. It also follows that a District Superintendent has no right to employ on his district an effective preacher who belongs to another Annual Conference. (The matter is treated to some extent in the Episcopal Ruling of May, 1907, No. 27; and in the ruling of November, 1892, and May, 1907, No. 28.) Approved.

¶ 186, § 3, gives a District Superintendent power to change the appointments of the preachers in his district if necessary during the interval between the sessions of the Conferences in case the Bishop is not personally present within the bounds of the Annual Conference. But he does not have the power to send out or bring into the district an effective preacher who belongs to another district. Appointments involving the charge of a pastor from one to another district must be by the Bishop in charge.

### Local Preachers as Conference claimants.

175. November, 1914. Under the action of the General Conference of 1912, as printed in

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the Journal, though not in the Discipline, it appears that an Annual Conference may by a two-thirds vote of those present and voting, accept as a special claimant a local preacher who has been regularly appointed as a supply for at least fifteen consecutive years. It can grant him aid only from such funds as may have been collected by and for said Conference and not from the Chartered Fund or Book Concern dividend. These provisions apply also to the widow of such local preacher on the same conditions. It is our judgment that such action does not constitute such a local preacher a permanent claimant, but this action must be taken at each session of the Annual Conference. Approved.

### **Proposed amendments concerning Bishops for Races and Languages.**

176. November, 1914. Inasmuch as the secretary of the General Conference has not certified to the Board of Bishops formal authorization for the submission of the proposed amendment, we are not at liberty at this time to hand down this amendment to the Annual and Lay Electoral Conferences. Disapproved.

It is the duty of the Bishops to submit to

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the Conferences (Annual and Lay Electoral) an amendment authorized to be sent down by the General Conference. The Bishops take judicial notice of what appears in the Journal, and there is no necessity for their waiting two years and a half for an official notification from the secretary of the action of the Conference of which they have knowledge through the Journal.

### **Resignations from Church Boards.**

177. May, 1915. "Since on the authority of the General Conference the Board of Bishops appoints certain representatives to membership on certain Church boards and various commissions, all resignations of such appointments must be made to the Board of Bishops." Approved.

### **Proposed amendment for the election of Bishops for Races and Languages.**

178. May, 1915. "In regard to the proposed amendment to the Constitution, providing for Bishops for Races and Languages, we find that it was to be submitted to the Annual Conferences in case the proposition received the requisite constitutional vote in the General Conference of 1912. Inasmuch as the Journal of

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that General Conference states that the proposed amendment did not receive the said constitutional vote, it is not the function of the Bishops to submit it to the Annual Conference.

“But an Annual Conference has the right to propose an amendment to the Constitution of the Church, and to send it to the other Annual Conferences for their consideration and action. This is the province of the Annual Conference and not of the Board of Bishops, but the Bishops presiding in the several Annual Conferences will take pains to present a proposition thus sent around for the consideration of the said Conferences after it has been duly forwarded and received by the secretaries of these bodies.”

The first part of this ruling is disapproved. The General Conference Journal, 1912, page 517, gives the number of votes in favor of the submission of the amendment: Ayes, 430; noes, 112; that constitutes a two-thirds vote of the quorum, as shown in our report number reported to the General Conference at its present session. The secretary's statement that the two-thirds vote of the General Conference was 548 is based on the assumption that it was necessary the proposition should receive a two-thirds vote of



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the entire Conference rather than of the quorum. The proposition, therefore, should have been sent down to the Annual Conferences soon thereafter. The second part of the ruling is approved.

### **Giving, returning, and retaining credentials of ordination.**

179. The giving of certificates to those who have been ordained, has always been part of the common law of the Church, and the statute law in the Book of Discipline, requiring the surrender of credentials, shows that they must have been granted to, and in possession of, those who have been ordained. It is, therefore, plain that one ordained is entitled to a certificate of his ordination. When a minister leaves the ministry of our Church, he is legally and in honor bound to give up his credentials of ordination received from the Methodist Episcopal Church, and the authorities should insist upon his so doing, but it is possible to permit one who withdraws to join the ministry of another Church to receive his parchments after the form in the Discipline, ¶ 109, § 1 has been written across the face of the printed or written certificate of ordination in such a way as to prevent

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the party using it as a valid credential as a minister of our Church. Approved.

### **Membership on Epworth League Board of Control.**

180. The removal of a representative of a General Conference District from within the bounds of the District creates a vacancy in the representation of the said district. While the Discipline provides that the Board of Control shall fill vacancies in the general offices of the Epworth League, nothing is said as to the filling of vacancies in district representation. Under these circumstances the Board of Bishops is the proper body to fill such vacancies. Approved.

### **Additional rulings of the Bishops.**

The following should be inserted under the head of "Trustees of Property":

(A) Trustees, or other Church Officers, having charge of our Church property, shall not prevent or interfere with the legal and proper uses of such property as intended by the laws and usages of the denomination, and they shall not use the property for purposes not in harmony with the law and the intention for which the property was created. They shall not prevent or interfere with the pastor or other duly

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authorized ministers of the denomination in the use of said property for religious services or other proper meetings recognized by the law and usage of the denomination. Further, no pastor or other officer shall abolish or prevent a service in the Church property which has been ordered by or according to Church law or authority. Approved.

(B) The word "members," when used in relation to corporation and similar meetings, should be understood as including only members of twenty-one years of age, unless the law of the State or country fixes some other required age. Disapproved. We think the ruling is not as specifically stated as it should be. We answer in all such cases the law of the State granting the charter governs.

(C) ¶ 337 in the first line the word "shall" should be changed to "may" as in the Discipline of 1908, so that the line shall read, "In all other cases the Trustees may be elected," etc. Approved.

(D) The Section on Divorce, which stands under the head of "Special Advices," ¶ 67, as § IV, Divorce, has by the General Conference been declared to be law, and should, therefore, be removed from its present place among the

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"Special Advices" and placed in a proper position in the list of statutory laws. Approved.

(E) We call attention to an error in the Book of Discipline, ¶ 186, § 3, under the heading, "Duty of District Superintendents," and in connection with the phrase, "in the absence of a Bishop." (§§ 2 and 3.)

No change was made in the law in this place by the General Conference of 1912. An interpretation of the phrase was given which should and does stand in the list of "Decisions," but no change was made or proposed in the law itself.

In view of this the Board of Bishops made the following ruling in May, 1913: "As no amendment was made to the law previously in force by the General Conference of 1912, and no amendment to the law was even proposed, the law should stand as it appeared in the Book of Discipline of 1908, notwithstanding the error of the Discipline of 1912."

As there was no change in the law the section should be changed by striking out the words, "in case the Bishop is not personally present within the bounds of the Annual Conference," and restoring the phraseology of the section as it was in 1908 prior to the alteration. Approved. (*Journal*, 1916.)

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